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The United States Government & Legal Systems

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Historical [1]

The colonial history of the United States covers the history of European colonization of the Americas from the start of colonization in the early 16th century until their incorporation into the United States of America. In the late 16th century, England, France, Spain, and the Netherlands launched major colonization programs in eastern North America Small early attempts sometimes disappeared, such as the English Lost Colony of Roanoke. Everywhere, the death rate was very high among the first arrivals. Nevertheless, successful colonies were established within several decades.

European settlers came from a variety of social and religious groups, including adventurers, soldiers, farmers, and tradesmen, and a few from the aristocracy. Settlers traveling to the continent included the Dutch of New Netherland, the Swedes and Finns of New Sweden, the English Quakers of the Province of Pennsylvania, the English Puritans of New England, the English settlers of Jamestown, Virginia, the "worthy poor" of the Province of Georgia, the Germans who settled the mid-Atlantic colonies, and the Ulster Scots people of the Appalachian Mountains. These groups all became part of the United States when it gained its independence in 1776. Russian America and parts of New France and New Spain were also incorporated into the United States at various points. The diverse groups from these various regions built colonies of distinctive social, religious, political, and economic style.

Over time, non-British colonies East of the Mississippi River were taken over and most of the inhabitants were assimilated. In Nova Scotia, however, the British expelled the French Acadians, and many relocated to Louisiana. No major civil wars occurred in the thirteen colonies. The two chief armed rebellions were short-lived failures in Virginia in 1676 and in New York in 1689–91. Some of the colonies developed legalized systems of slavery, centered largely around the Atlantic slave trade. Wars were recurrent between the French and the British during the French and Indian Wars. By 1760, France was defeated and its colonies were seized by Britain.

On the eastern seaboard, the four distinct English regions were New England, the Middle Colonies, the Chesapeake Bay Colonies (Upper South), and the Southern Colonies (Lower South). Some historians add a fifth region of the Frontier, which was never separately organized. By the time that European settlers arrived around 1600–1650, a significant percentage of the Indians living in the eastern region had been ravaged by disease, possibly introduced to them decades before by explorers and sailors (although no conclusive cause has ever been established).

The Goals of Colonization

Colonists came from European kingdoms that had highly developed military, naval, governmental, and entrepreneurial capabilities. The Spanish and Portuguese centuries-

[1] Wikipedia

old experience of conquest and colonization during the Reconquista, coupled with new oceanic ship navigation skills, provided the tools, ability, and desire to colonize the New World.

England, France, and the Netherlands had also started colonies in the West Indies and North America. They had the ability to build ocean-worthy ships but did not have as strong a history of colonization in foreign lands as did Portugal and Spain. However, English entrepreneurs gave their colonies a foundation of merchant-based investment that seemed to need much less government support.

Initially, matters concerning the colonies were dealt with primarily by the Privy Council of England and its committees. The Commission of Trade was set up in 1625 as the first special body convened to advise on colonial (plantation) questions. From 1696 until the end of the American Revolution, colonial affairs were the responsibility of the Board of Trade in partnership with the relevant secretaries of state, which changed from the Secretary of State for the Southern Department to the Secretary of State for the Colonies in 1768.

Mercantilism

Mercantilism was the basic policy imposed by Britain on its colonies from the 1660s, which meant that the government became a partner with merchants based in England in order to increase political power and private wealth. This was done to the exclusion of other empires and even other merchants in its own colonies. The government protected its London-based merchants and kept out others by trade barriers, regulations, and subsidies to domestic industries in order to maximize exports from the realm and minimize imports.

The government also fought smuggling, and this became a direct source of controversy with American merchants when their normal business activities became reclassified as "smuggling" by the Navigation Acts. This included activities that had been ordinary business dealings previously, such as direct trade with the French, Spanish, Dutch, and Portuguese. The goal of mercantilism was to run trade surpluses so that gold and silver would pour into London. The government took its share through duties and taxes, with the remainder going to merchants in Britain. The government spent much of its revenue on a superb Royal Navy which protected the British colonies and also threatened the colonies of the other empires, sometimes even seizing them. Thus, the British Navy captured New Amsterdam (New York) in 1664. The colonies were captive markets for British industry, and the goal was to enrich the mother country.

Freedom from Religious Persecution

The prospect of religious persecution by authorities of the crown and the Church of England prompted a significant number of colonization efforts. The Pilgrims were separatist Puritans who fled persecution in England, first to the Netherlands and ultimately to Plymouth Plantation in 1620. Over the following 20 years, people fleeing persecution from King Charles I settled most of New England. Similarly, the Province of Maryland was founded in part to be a haven for Roman Catholics.

Early Colonial Failures

Anonymous Portuguese explorers were the first Europeans to map the eastern seaboard of America from New York to Florida, as documented in the Cantino planisphere of 1502. However, they kept their discoveries a secret and did not attempt to settle in North America, as the Inter caetera issued by Pope Alexander VI had granted these lands to Spain in 1493. Other countries did attempt to found colonies in America over the following century, but most of those attempts ended in failure. The colonists themselves faced high rates of death from disease, starvation, inefficient resupply, conflict with American Indians, attacks by rival European powers, and other causes.

Spain had numerous failed attempts, including San Miguel de Gualdape in Georgia (1526), Pánfilo de Narváez's expedition to Florida's Gulf coast (1528–36), Pensacola in West Florida (1559–61), Fort San Juan in North Carolina (1567–68), and the Ajacán Mission in Virginia (1570–71). The French failed at Parris Island, South Carolina (1562–63), Fort Caroline on Florida's Atlantic coast (1564–65), Saint Croix Island, Maine (1604-05), and Fort Saint Louis, Texas (1685–89). The most notable English failures were the "Lost Colony of Roanoke" (1587–90) in North Carolina and Popham Colony in Maine (1607–08). It was at the Roanoke Colony that Virginia Dare became the first English child born in the Americas; her fate is unknown.

New Spain

The Spaniard Juan Ponce de León named and explored Florida. Starting in the 15th century, Spain built a colonial empire in the Americas consisting of New Spain and other vice-royalties. New Spain included territories in Florida, Alabama, Mississippi, much of the United States west of the Mississippi River, parts of Latin America (including Puerto Rico), and the Spanish East Indies (including Guam and the Northern Mariana Islands). New Spain encompassed the territory of Louisiana after the Treaty of Fontainebleau (1762), though Louisiana reverted to France in the 1800 Third Treaty of San Ildefonso.

Many territories that had been part of New Spain became part of the United States after 1776 through various wars and treaties, including the Louisiana Purchase (1803), the Adams–Onís Treaty (1819), the Mexican–American War (1846–1848), and the Spanish–American War (1898). There were also several Spanish expeditions to the Pacific Northwest, but Spain gave the United States all claims to the Pacific Northwest in the Adams–Onís Treaty. There were several thousand families in New Mexico and California who became American citizens in 1848, plus small numbers in the other colonies.

Florida

Spain established several small outposts in Florida in the early 16th century. The most important of these was St. Augustine, founded in 1565 but repeatedly attacked and burned by pirates, privateers, and English forces. Its buildings survived even though

nearly all the Spanish left. It claims to be the oldest European settlement in the continental United States.

The British attacked Spanish Florida during numerous wars. As early as 1687, the Spanish government had begun to offer asylum to slaves from British colonies, and the Spanish Crown officially proclaimed in 1693 that runaway slaves would find freedom in Florida in return for converting to Catholicism and four years of military service to the Crown. In effect, Spain created a maroon settlement in Florida as a front-line defense against English attacks from the north. Spain also intended to destabilize the plantation economy of the British colonies by creating a free black community to attract slaves seeking escape and refuge from the British slavery.

In 1763, Spain traded Florida to Great Britain in exchange for control of Havana, Cuba, which had been captured by the British during the Seven Years' War. Florida was home to about 3,000 Spaniards at the time, and nearly all quickly left. Britain occupied Florida but did not send many settlers to the area, and control was restored to Spain in 1783 by the Peace of Paris which ended the American Revolutionary War. Spain sent no more settlers or missionaries to Florida during this second colonial period. The inhabitants of West Florida revolted against the Spanish in 1810 and formed the Republic of West Florida, which was quickly annexed by the United States. The United States took possession of East Florida in 1821 according to the terms of the Adams–Onís Treaty.

New Mexico

Throughout the 16th century, Spain explored the southwest from Mexico, with the most notable explorer being Francisco Coronado, whose expedition rode throughout modern New Mexico and Arizona, arriving in New Mexico in 1540. The Spanish moved north from Mexico, settling villages in the upper valley of the Rio Grande, including much of the western half of the present-day state of New Mexico. The capital of Santa Fe was settled in 1610 and remains the oldest continually inhabited settlement in the United States. Local Indians expelled the Spanish for 12 years following the Pueblo Revolt of 1680; they returned in 1692 in the bloodless reoccupation of Santa Fe. Control was by Spain (223 years) and Mexico (25 years) until 1846, when the American Army of the West took over in the Mexican–American War. About a third of the population in the 21st century is descended from the Spanish settlers.

California

From 1769 until the independence of Mexico in 1820, Spain sent missionaries and soldiers to Alta California who created a series of missions operated by Franciscan priests. They also operated presidios (forts), pueblos (settlements)s, and ranchos (land grant ranches), along the southern and central coast of California. Father Junípero Serra, founded the first missions in Spanish upper Las Californias, starting with Mission San Diego de Alcalá in 1769. Through the Spanish and Mexican eras they eventually comprised a series of 21 missions to spread Roman Catholicism among the local Native Americans, linked by El Camino Real ("The Royal Road"). They were established to convert the indigenous peoples of California, while protecting historic Spanish claims to the area. The missions introduced European technology, livestock, and crops. The

Indian Reductions converted the native peoples into groups of Mission Indians; they worked as laborers in the missions and the ranchos. In the 1830s the missions were disbanded and the lands sold to Californios. The indigenous Native American population was around 150,000; the Californios (Mexican era Californians) around 10,000; with the rest immigrant Americans and other nationalities involved in trade and business in California

Puerto Rico

In September 1493, Christopher Columbus set sail on his second voyage with 17 ships from Cádiz. On November 19, 1493 he landed on the island of Puerto Rico, naming it San Juan Bautista in honor of Saint John the Baptist. The first European colony, Caparra, was founded on August 8, 1508 by Juan Ponce de León, a lieutenant under Columbus, who was greeted by the Taíno Cacique Agüeybaná and who later became the first governor of the island. Ponce de Leon was actively involved in the Higuey massacre of 1503 in Puerto Rico. In 1508, Sir Ponce de Leon was chosen by the Spanish Crown to lead the conquest and slavery of the Taíno Indians for gold mining operations. The following year, the colony was abandoned in favor of a nearby islet on the coast, named Puerto Rico (Rich Port), which had a suitable harbor. In 1511, a second settlement, San Germán was established in the southwestern part of the island. During the 1520s, the island took the name of Puerto Rico while the port became San Juan.

As part of the colonization process, African slaves were brought to the island in 1513. Following the decline of the Taíno population, more slaves were brought to Puerto Rico; however, the number of slaves on the island paled in comparison to those in neighboring islands. Also, early in the colonization of Puerto Rico, attempts were made to wrest control of Puerto Rico from Spain. The Caribs, a raiding tribe of the Caribbean, attacked Spanish settlements along the banks of the Daguao and Macao rivers in 1514 and again in 1521 but each time they were easily repelled by the superior Spanish firepower. However, these would not be the last attempts at control of Puerto Rico. The European powers quickly realized the potential of the newly discovered lands and attempted to gain control of them. Nonetheless, Puerto Rico remained a Spanish possession until the 19th century.

The last half of the 19th century was marked by the Puerto Rican struggle for sovereignty. A census conducted in 1860 revealed a population of 583,308. Of these, 300,406 (51.5%) were white and 282,775 (48.5%) were persons of color, the latter including people of primarily African heritage, mulattos and mestizos. The majority of the population in Puerto Rico was illiterate (83.7%) and lived in poverty, and the agricultural industry—at the time, the main source of income—was hampered by lack of road infrastructure, adequate tools and equipment, and natural disasters, including hurricanes and droughts. The economy also suffered from increasing tariffs and taxes imposed by the Spanish Crown. Furthermore, Spain had begun to exile or jail any person who called for liberal reforms. The Spanish–American War broke out in 1898, in the aftermath of the explosion of USS Maine in Havana harbor. The U.S. defeated Spain by the end of the year, and won control of Puerto Rico in the ensuing peace

treaty. In the Foraker Act of 1900, the U.S. Congress established Puerto Rico's status as an unincorporated territory.

New France
New France was the vast area centered on the Saint Lawrence river, Great Lakes, Mississippi River and other major tributary rivers that was explored and claimed by France starting in the early 17th century. It was composed of several colonies: Acadia, Canada, Newfoundland, Louisiana, Île-Royale (present-day Cape Breton Island), and Île Saint Jean (present-day Prince Edward Island). These colonies came under British or Spanish control after the French and Indian War, though France briefly re-acquired a portion of Louisiana in 1800. The United States would gain much of New France in the 1783 Treaty of Paris, and the U.S. would acquire another portion of French territory with the Louisiana Purchase of 1803. The remainder of New France became part of Canada, with the exception of the French island of Saint Pierre and Miquelon.

Pays d'en Haut
By 1660, French fur trappers, missionaries and military detachments based in Montreal pushed west along the Great Lakes upriver into the Pays d'en Haut and founded outposts at Green Bay, Fort de Buade and Saint Ignace (both at Michilimackinac), Sault Sainte Marie, Vincennes, and Detroit in 1701. During the French and Indian War (1754–1763) many of these settlements became occupied by the British. By 1773, the population of Detroit was 1,400. At the end of the War for Independence in 1783, the region south of the Great Lakes formally became part of the United States.

Illinois Country
The Illinois country by 1752 had a French population of 2,500; it was located to the west of the Ohio Country and was concentrated around Kaskaskia, Cahokia, and Sainte Genevieve. According to one scholar, "The Illinois Habitant was a gay soul; he seemed shockingly carefree to later, self-righteous Puritans from the American colonies."

Louisiana
French claims to French Louisiana stretched thousands of miles from modern Louisiana north to the largely unexplored Midwest, and west to the Rocky Mountains. It was generally divided into Upper and Lower Louisiana. This vast tract was first settled at Mobile and Biloxi around 1700, and continued to grow when 7,000 French immigrants founded New Orleans in 1718. Settlement proceeded very slowly; New Orleans became an important port as the gateway to the Mississippi River, but there was little other economic development because the city lacked a prosperous hinterland.

In 1763, Louisiana was ceded to Spain around New Orleans and west of the Mississippi River. In the 1780s, the western border of the newly independent United States stretched to the Mississippi River. The United States reached an agreement with Spain for navigation rights on the river and was content to let the "feeble" colonial power stay in control of the area. The situation changed when Napoleon forced Spain to return Louisiana to France in 1802 and threatened to close the river to American vessels. Alarmed, the United States offered to buy New Orleans.

Napoleon needed funds to wage another war with Great Britain, and he doubted that France could defend such a huge and distant territory. He therefore offered to sell all of Louisiana for $15 million. The United States completed the Louisiana Purchase in 1803, doubling the size of the nation.

New Netherland

Nieuw-Nederland, or New Netherland, was a colonial province of the Republic of the Seven United Netherlands chartered in 1614, in what became New York State, New Jersey, and parts of other neighboring states. The peak population was less than 10,000. The Dutch established a patroon system with feudal-like rights given to a few powerful landholders; they also established religious tolerance and free trade. The colony's capital of New Amsterdam was founded in 1625 and located at the southern tip of the island of Manhattan, which grew to become a major world city.

The city was captured by the English in 1664; they took complete control of the colony in 1674 and renamed it New York. However the Dutch landholdings remained, and the Hudson River Valley maintained a traditional Dutch character until the 1820s. Traces of Dutch influence remain in present-day northern New Jersey and southeastern New York State, such as homes, family surnames, and the names of roads and whole towns.

New Sweden

New Sweden (Swedish: Nya Sverige) was a Swedish colony that existed along the Delaware River Valley from 1638 to 1655 and encompassed land in present-day Delaware, southern New Jersey, and southeastern Pennsylvania. The several hundred settlers were centered around the capital of Fort Christina, at the location of what is today the city of Wilmington, Delaware. The colony also had settlements near the present-day location of Salem, New Jersey (Fort Nya Elfsborg) and on Tinicum Island, Pennsylvania. The colony was captured by the Dutch in 1655 and merged into New Netherland, with most of the colonists remaining. Years later, the entire New Netherland colony was incorporated into England's colonial holdings.

The colony of New Sweden introduced Lutheranism to America in the form of some of the continent's oldest European churches. The colonists also introduced the log cabin to America, and numerous rivers, towns, and families in the lower Delaware River Valley region derive their names from the Swedes. The Nothnagle Log House in present-day Gibbstown, New Jersey, was constructed in the late 1630s during the time of the New Sweden colony. It remains the oldest European-built house in New Jersey and is believed to be one of the oldest surviving log houses in the United States.

Russian Colonies

Russia explored the area that became Alaska, starting with the Second Kamchatka expedition in the 1730s and early 1740s. Their first settlement was founded in 1784 by Grigory Shelikhov. The Russian-American Company was formed in 1799 with the influence of Nikolay Rezanov, for the purpose of buying sea otters for their fur from native hunters. In 1867, the U.S. purchased Alaska, and nearly all Russians abandoned

the area except a few missionaries of the Russian Orthodox Church working among the natives.

English Colonies

England made its first successful efforts at the start of the 17th century for several reasons. During this era, English proto-nationalism and national assertiveness blossomed under the threat of Spanish invasion, assisted by a degree of Protestant militarism and the energy of Queen Elizabeth. At this time, however, there was no official attempt by the English government to create a colonial empire. Rather the motivation behind the founding of colonies was piecemeal and variable. Practical considerations played their parts, such as commercial enterprise, over-crowding, and the desire for freedom of religion. The main waves of settlement came in the 17th century. After 1700, most immigrants to Colonial America arrived as indentured servants, young unmarried men and women seeking a new life in a much richer environment. The consensus view among economic historians and economists is that the indentured servitude occurred largely as "an institutional response to a capital market imperfection," but that it "enabled prospective migrants to borrow against their future earnings in order to pay the high cost of passage to America." Between the late 1610s and the American Revolution, the British shipped an estimated 50,000 to 120,000 convicts to its American colonies.

Dr. Alexander Hamilton (1712–1756) was a Scottish-born doctor and writer who lived and worked in Annapolis, Maryland. Leo Lemay says that his 1744 travel diary Gentleman's Progress: The Itinerarium of Dr. Alexander Hamilton is "the best single portrait of men and manners, of rural and urban life, of the wide range of society and scenery in colonial America." His diary has been widely used by scholars, and covers his travels from Maryland to Maine. Biographer Elaine Breslaw says that he encountered:

> the relatively primitive social milieu of the New World. He faced unfamiliar and challenging social institutions: the labor system that relied on black slaves, extraordinarily fluid social statuses, distasteful business methods, unpleasant conversational quirks, as well as variant habits of dress, food, and drink.

Chesapeake Bay Area

Virginia

The first successful English colony was Jamestown, established May 14, 1607 near Chesapeake Bay. The business venture was financed and coordinated by the London Virginia Company, a joint stock company looking for gold. Its first years were extremely difficult, with very high death rates from disease and starvation, wars with local Indians, and little gold. The colony survived and flourished by turning to tobacco as a cash crop. By the late 17th century, Virginia's export economy was largely based on tobacco, and new, richer settlers came in to take up large portions of land, build large plantations and import indentured servants and slaves. In 1676, Bacon's Rebellion occurred, but was suppressed by royal officials. After Bacon's Rebellion, African slaves rapidly replaced indentured servants as Virginia's main labor force.

The colonial assembly shared power with a royally appointed governor. On a more local level, governmental power was invested in county courts, which were self-perpetuating (the incumbents filled any vacancies and there never were popular elections). As cash crop producers, Chesapeake plantations were heavily dependent on trade with England. With easy navigation by river, there were few towns and no cities; planters shipped directly to Britain. High death rates and a very young population profile characterized the colony during its first years.

New England

Puritans

The Pilgrims were a small group of Puritan separatists who felt that they needed to physically distance themselves from the Church of England. They initially moved to the Netherlands, then decided to re-establish themselves in America. The initial Pilgrim settlers sailed to North America in 1620 on the Mayflower. Upon their arrival, they drew up the Mayflower Compact, by which they bound themselves together as a united community, thus establishing the small Plymouth Colony. William Bradford was their main leader. After its founding, other settlers traveled from England to join the colony.

The non-separatist Puritans constituted a much larger group than the Pilgrims, and they established the Massachusetts Bay Colony in 1629 with 400 settlers. They sought to reform the Church of England by creating a new, pure church in the New World. By 1640, 20,000 had arrived; many died soon after arrival, but the others found a healthy climate and an ample food supply. The Plymouth and Massachusetts Bay colonies together spawned other Puritan colonies in New England, including the New Haven, Saybrook, and Connecticut colonies. During the 17th century, the New Haven and Saybrook colonies were absorbed by Connecticut.

The Puritans created a deeply religious, socially tight-knit, and politically innovative culture that still influences the modern United States. They hoped that this new land would serve as a "redeemer nation". They fled England and attempted to create a "nation of saints" or a "City upon a Hill" in America: an intensely religious, thoroughly righteous community designed to be an example for all of Europe.

Economically, Puritan New England fulfilled the expectations of its founders. The Puritan economy was based on the efforts of self-supporting farmsteads that traded only for goods which they could not produce themselves, unlike the cash crop-oriented plantations of the Chesapeake region. There was a generally higher economic standing and standard of living in New England than in the Chesapeake. New England became an important mercantile and shipbuilding center, along with agriculture, fishing, and logging, serving as the hub for trading between the southern colonies and Europe.

Other New England
Providence Plantation was founded in 1636 by Roger Williams on land provided by Narragansett sachem Canonicus. Williams was a Puritan who preached religious tolerance, separation of Church and State, and a complete break with the Church of England. He was banished from the Massachusetts Bay Colony over theological disagreements, and he and other settlers founded Providence Plantation based on an egalitarian constitution providing for majority rule "in civil things" and "liberty of conscience" in religious matters. In 1637, a second group including Anne Hutchinson established a second settlement on Aquidneck Island, also known as Rhode Island.

Other colonists settled to the north, mingling with adventurers and profit-oriented settlers to establish more religiously diverse colonies in New Hampshire and Maine. These small settlements were absorbed by Massachusetts when it made significant land claims in the 1640s and 1650s, but New Hampshire was eventually given a separate charter in 1679. Maine remained a part of Massachusetts until achieving statehood in 1820.

Dominion of New England
Under King James II of England, the New England colonies, New York, and the Jerseys were briefly united as the Dominion of New England (1686–89). The administration was eventually led by Governor Sir Edmund Andros and seized colonial charters, revoked land titles, and ruled without local assemblies, causing anger among the population. The 1689 Boston revolt was inspired by England's Glorious Revolution against James II and led to the arrest of Andros, Boston Anglicans, and senior dominion officials by the Massachusetts militia. Andros was jailed for several months, then returned to England. The Dominion of New England was dissolved and governments resumed under their earlier charters.

However, the Massachusetts charter had been revoked in 1684, and a new one was issued in 1691 that combined Massachusetts and Plymouth into the Province of Massachusetts Bay. King William III sought to unite the New England colonies militarily by appointing the Earl of Bellomont to three simultaneous governorships and military command over Connecticut and Rhode Island. However, these attempts failed at unified control.

Middle Colonies
The Middle Colonies consisted of the present-day states of New York, New Jersey, Pennsylvania, and Delaware and were characterized by a large degree of diversity—religious, political, economic, and ethnic.

The Dutch colony of New Netherland was taken over by the British and renamed New York. However, large numbers of Dutch remained in the colony, dominating the rural areas between New York City and Albany. Meanwhile, Yankees from New England started moving in, as did immigrants from Germany. New York City attracted a large polyglot population, including a large black slave population.

New Jersey began as a division of New York, and was divided into the proprietary colonies of East and West Jersey for a time.

Pennsylvania was founded in 1681 as a proprietary colony of Quaker William Penn. The main population elements included Quaker population based in Philadelphia, a Scotch Irish population on the Western frontier, and numerous German colonies in between. Philadelphia became the largest city in the colonies with its central location, excellent port, and a population of about 30,000.

By the mid-18th century, Pennsylvania was basically a middle-class colony with limited deference to the small upper-class. A writer in the Pennsylvania Journal summed it up in 1756:

> The People of this Province are generally of the middling Sort, and at present pretty much upon a Level. They are chiefly industrious Farmers, Artificers or Men in Trade; they enjoy in [are fond of] Freedom, and the meanest among them thinks he has a right to Civility from the greatest.

South

The predominant culture of the South was rooted in the settlement of the region by British colonists. In the seventeenth century, most voluntary colonists were of English origins who settled chiefly along the coastal regions of the Eastern seaboard. The majority of early British settlers were indentured servants, who gained freedom after enough work to pay off their passage. The wealthier men who paid their way received land grants known as headrights, to encourage settlement.

Spanish colonized Florida in the 16th century, with their communities reaching a peak in the late 17th century. In the British and French colonies, most colonists arrived after 1700. They cleared land, built houses and outbuildings, and worked on the large plantations that dominated export agriculture. Many were involved in the labor-intensive cultivation of tobacco, the first cash crop of Virginia. With a decrease in the number of British willing to go to the colonies in the eighteenth century, planters began importing more enslaved Africans, who became the predominant labor force on the plantations. Tobacco exhausted the soil quickly, requiring new fields to be cleared on a regular basis. Old fields were used as pasture and for crops such as corn and wheat, or allowed to grow into woodlots.

Rice cultivation in South Carolina became another major commodity crop. Some historians have argued that slaves from the lowlands of western Africa, where rice was a basic crop, provided key skills, knowledge and technology for irrigation and construction of earthworks to support rice cultivation. The early methods and tools used in South Carolina were congruent with those in Africa. British colonists would have had little or no familiarity with the complex process of growing rice in fields flooded by irrigation works..

In the mid- to late-18th century, large groups of Scots and Ulster-Scots (later called the Scots-Irish) immigrated and settled in the back country of Appalachia and the Piedmont. They were the largest group of colonists from the British Isles before the American Revolution. In a census taken in 2000 of Americans and their self-reported ancestries, areas where people reported 'American' ancestry were the places where, historically, many Scottish, Scotch-Irish and English Borderer Protestants settled in America: the interior as well as some of the coastal areas of the South, and especially the Appalachian region. The population with some Scots and Scots-Irish ancestry may number 47 million, as most people have multiple heritages, some of which they may not know.

The early colonists, especially the Scots-Irish in the back-country, engaged in warfare, trade, and cultural exchanges. Those living in the backcountry were more likely to join with Creek Indians, Cherokee, and Choctaws and other regional native groups.

The oldest university in the South, The College of William & Mary, was founded in 1693 in Virginia; it pioneered in the teaching of political economy and educated future U.S. Presidents Jefferson, Monroe and Tyler, all from Virginia. Indeed, the entire region dominated politics in the First Party System era: for example, four of the first five Presidents— Washington, Jefferson, Madison, and Monroe — were from Virginia. The two oldest public universities are also in the South: the University of North Carolina (1795) and the University of Georgia (1785).

The colonial South included the plantation colonies of the Chesapeake region (Virginia, Maryland, and, by some classifications, Delaware) and the lower South (Carolina, which eventually split into North and South Carolina; and Georgia).

Chesapeake Society

The top five percent or so of the white population of Virginia and Maryland in the mid-18th century were planters who possessed growing wealth and increasing political power and social prestige. They controlled the local Anglican church, choosing ministers and handling church property and disbursing local charity. They sought election to the house of purchases or appointment as justice of the peace.

About 60 percent of white Virginians were part of a broad middle class that owned substantial farms. By the second generation, death rates from malaria and other local diseases had declined so much that a stable family structure was possible.

The bottom third owned no land and verged on poverty. Many were recent arrivals, recently released from indentured servitude. In some districts near present-day Washington DC, 70 percent of the land was owned by a handful of families, and three fourths of the whites had no land at all. Large numbers of Irish and German Protestants had settled in the frontier districts, often moving down from Pennsylvania. Tobacco was not important here; farmers focused on hemp, grain, cattle, and horses. Entrepreneurs had begun to mine and smelt the local iron ores.

Sports occupied a great deal of attention at every social level, starting at the top. In England, hunting was sharply restricted to landowners and enforced by armed gameskeepers. In America, game was more than plentiful. Everyone could and did hunt, including servants and slaves. Poor men with good rifle skills won praise; rich gentlemen who were off target won ridicule.

Historian Edmund Morgan argues that Virginians in the 1650s and for the next two centuries turned to slavery and a racial divide as an alternative to class conflict. "Racism made it possible for white Virginians to develop a devotion to the equality that English republicans had declared to be the soul of liberty." That is, white men became politically much more equal than was possible without a population of low-status slaves.

By 1700, the Virginia population reached 70,000 and continued to grow rapidly from a high birth rate, low death rate, importation of slaves from the Caribbean, and immigration from Britain, Germany, and Pennsylvania. The climate was mild; the farm lands were cheap and fertile.

Carolinas

The Province of Carolina was the first attempted English settlement south of Virginia. It was a private venture, financed by a group of English Lords Proprietors who obtained a Royal Charter to the Carolinas in 1663, hoping that a new colony in the south would become profitable like Jamestown. Carolina was not settled until 1670, and even then the first attempt failed because there was no incentive for emigration to that area. Eventually, however, the Lords combined their remaining capital and financed a settlement mission to the area led by Sir John Colleton. The expedition located fertile and defensible ground at what became Charleston, originally Charles Town for Charles II of England. The original settlers in South Carolina established a lucrative trade in food for the slave plantations in the Caribbean. The settlers came mainly from the English colony of Barbados and brought African slaves with them. Barbados was a wealthy sugarcane plantation island, one of the early English colonies to use large numbers of Africans in plantation-style agriculture. The cultivation of rice was introduced during the 1690s and became an important export crop.

At first, South Carolina was politically divided. Its ethnic makeup included the original settlers (a group of rich, slave-owning English settlers from the island of Barbados) and Huguenots, a French-speaking community of Protestants. Nearly continuous frontier warfare during the era of King William's War and Queen Anne's War drove economic and political wedges between merchants and planters. The disaster of the 1715 Yamasee War threatened the colony's viability and set off a decade of political turmoil. By 1729, the proprietary government had collapsed, and the Proprietors sold both colonies back to the British crown.

North Carolina had the smallest upper-class. The richest 10 percent owned about 40 percent of all land, compared to 50 to 60 percent in neighboring Virginia and South Carolina. There were no cities of any size and very few towns, so there was scarcely an

urban middle class at all. Heavily rural North Carolina was dominated by subsistence farmers with small operations. In addition, one fourth of the whites had no land at all.

Georgia
British Member of Parliament James Oglethorpe established the Georgia Colony in 1733 as a solution to two problems. At that time, tension was high between Spain and Great Britain, and the British feared that Spanish Florida was threatening the British Carolinas. Oglethorpe decided to establish a colony in the contested border region of Georgia and to populate it with debtors who would otherwise have been imprisoned according to standard British practice. This plan would both rid Great Britain of its undesirable elements and provide her with a base from which to attack Florida. The first colonists arrived in 1733.

Georgia was established on strict moralistic principles. Slavery was officially forbidden, as were alcohol and other forms of immorality. However, the reality of the colony was far different. The colonists rejected a moralistic lifestyle and complained that their colony could not compete economically with the Carolina rice plantations. Georgia initially failed to prosper, but eventually the restrictions were lifted, slavery was allowed, and it became as prosperous as the Carolinas. The colony of Georgia never had an established religion; it consisted of people of various faiths.

East and West Florida
Spain ceded Florida to Great Britain in 1763, which established the colonies of East and West Florida. The Floridas remained loyal to Great Britain during the American Revolution. They were returned to Spain in 1783 in exchange for the Bahamas, at which time most of the British left. The Spanish then neglected the Floridas; few Spaniards lived there when the US bought the area in 1819.

Unification of the British Colonies
Efforts began as early as the 1640s toward a common defense of the colonies, principally against shared threats from Indians, the French, and the Dutch. The Puritan colonies of New England formed a confederation to coordinate military and judicial matters. From the 1670s, several royal governors attempted to find means of coordinating defensive and offensive military matters, notably Sir Edmund Andros (who governed New York, New England, and Virginia at various times) and Francis Nicholson (governed Maryland, Virginia, Nova Scotia, and Carolina). After King Phillips War, Andros successfully negotiated the Covenant Chain, a series of Indian treaties that brought relative calm to the frontiers of the middle colonies for many years.

The northern colonies experienced numerous assaults from the Wabanaki Confederacy and the French from Acadia during the four French and Indian Wars, particularly present-day Maine and New Hampshire, as well as Father Rale's War and Father Le Loutre's War.

At the Albany Congress of 1754, Benjamin Franklin proposed that the colonies be united by a Grand Council overseeing a common policy for defense, expansion, and

Indian affairs. The plan was thwarted by colonial legislatures and King George II, but it was an early indication that the British colonies of North America were headed towards unification.

French and Indian War

The French and Indian War (1754–1763) was the American extension of the general European conflict known as the Seven Years' War. Previous colonial wars in North America had started in Europe and then spread to the colonies, but the French and Indian War is notable for having started in North America and spread to Europe. One of the primary causes of the war was increasing competition between Britain and France, especially in the Great Lakes and Ohio valley.

The French and Indian War took on a new significance for the British North American colonists when William Pitt the Elder decided that major military resources needed to be devoted to North America in order to win the war against France. For the first time, the continent became one of the main theaters of what could be termed a "world war". During the war, the position of the British colonies as part of the British Empire was made truly apparent, as British military and civilian officials took on an increased presence in the lives of Americans.

The war also increased a sense of American unity in other ways. It caused men to travel across the continent who might otherwise have never left their own colony, fighting alongside men from decidedly different backgrounds who were nonetheless still "American". Throughout the course of the war, British officers trained American ones for battle, most notably George Washington, which benefitted the American cause during the Revolution. Also, colonial legislatures and officials had to cooperate intensively, for the first time, in pursuit of the continent-wide military effort. The relations between the British military establishment and the colonists were not always positive, setting the stage for later distrust and dislike of British troops.

Territorial changes following the French and Indian War: land held by the British before 1763 is shown in red, land gained by Britain in 1763 is shown in pink.

In the Treaty of Paris (1763), France formally ceded to Britain the eastern part of its vast North American empire, having secretly given to Spain the territory of Louisiana west of the Mississippi River the previous year. Before the war, Britain held the thirteen American colonies, most of present-day Nova Scotia, and most of the Hudson Bay watershed. Following the war, Britain gained all French territory east of the Mississippi River, including Quebec, the Great Lakes, and the Ohio River valley. Britain also gained Spanish Florida, from which it formed the colonies of East and West Florida. In removing a major foreign threat to the thirteen colonies, the war also largely removed the colonists' need of colonial protection.

The British and colonists triumphed jointly over a common foe. The colonists' loyalty to the mother country was stronger than ever before. However, disunity was beginning to form. British Prime Minister William Pitt the Elder had decided to wage the war in the

colonies with the use of troops from the colonies and tax funds from Britain itself. This was a successful wartime strategy but, after the war was over, each side believed that it had borne a greater burden than the other. The British elite, the most heavily taxed of any in Europe, pointed out angrily that the colonists paid little to the royal coffers. The colonists replied that their sons had fought and died in a war that served European interests more than their own. This dispute was a link in the chain of events that soon brought about the American Revolution.

Ties to the British Empire

The colonies were very different from one another but they were still a part of the British Empire in more than just name. Demographically, the majority of the colonists traced their roots to the British Isles and many of them still had family ties with Great Britain. Socially, the colonial elite of Boston, New York, Charleston, and Philadelphia saw their identity as British. Many had never lived in Britain in over a few generations, yet they imitated British styles of dress, dance, and etiquette. This social upper echelon built its mansions in the Georgian style, copied the furniture designs of Thomas Chippendale, and participated in the intellectual currents of Europe, such as the Enlightenment. The seaport cities of colonial America were truly British cities in the eyes of many inhabitants.

Republicanism

Many of the political structures of the colonies drew upon the republicanism expressed by opposition leaders in Britain, most notably the Commonwealth men and the Whig traditions. Many Americans at the time saw the colonies' systems of governance as modeled after the British constitution of the time, with the king corresponding to the governor, the House of Commons to the colonial assembly, and the House of Lords to the governor's council. The codes of law of the colonies were often drawn directly from English law; indeed, English common law survives not only in Canada, but also throughout the United States. Eventually, it was a dispute over the meaning of some of these political ideals (especially political representation) and republicanism that led to the American Revolution.

Consumption of British Goods

Another point on which the colonies found themselves more similar than different was the booming import of British goods. The British economy had begun to grow rapidly at the end of the 17th century and, by the mid-18th century, small factories in Britain were producing much more than the nation could consume. Britain found a market for their goods in the British colonies of North America, increasing her exports to that region by 360% between 1740 and 1770. British merchants offered credit to their customers; this allowed Americans to buy a large amount of British goods. From Nova Scotia to Georgia, all British subjects bought similar products, creating and anglicizing a sort of common identity.

Growing Dissent and the American Revolution

In the colonial era, Americans insisted on their rights as Englishmen to have their own legislature raise all taxes. The British Parliament, however, asserted in 1765 that it held

supreme authority to lay taxes, and a series of American protests began that led directly to the American Revolution. The first wave of protests attacked the Stamp Act of 1765, and marked the first time that Americans met together from each of the 13 colonies and planned a common front against British taxation. The Boston Tea Party of 1773 dumped British tea into Boston Harbor because it contained a hidden tax that Americans refused to pay. The British responded by trying to crush traditional liberties in Massachusetts, leading to the American revolution starting in 1775.

The idea of independence steadily became more widespread, after being first proposed and advocated by a number of public figures and commentators throughout the Colonies. One of the most prominent voices on behalf of independence was Thomas Paine in his pamphlet Common Sense published in 1776. Another group which called for independence was the Sons of Liberty, which had been founded in 1765 in Boston by Samuel Adams and which was now becoming even more strident and numerous.

The Parliament began a series of taxes and punishments which met more and more resistance: First Quartering Act (1765); Declaratory Act (1766); Townshend Revenue Act (1767); and Tea Act (1773). In response to the Boston Tea Party, Parliament passed the Intolerable Acts: Second Quartering Act (1774); Quebec Act (1774); Massachusetts Government Act (1774); Administration of Justice Act (1774); Boston Port Act (1774); Prohibitory Act (1775). By this point, the 13 colonies had organized themselves into the Continental Congress and begun setting up independent governments and drilling their militia in preparation for war.

Religion

The religious history of the United States began with the first Pilgrim settlers who came on the Mayflower in 1620. Their Puritan faith motivated their move from Europe. The Spanish set up a network of Catholic missions in California, but they had all closed decades before 1848 when California became part of the U.S. There were a few important French Catholic churches and institutions in New Orleans.

Most of the settlers came from Protestant backgrounds in England and Western Europe, with a small proportion of Catholics (chiefly in Maryland) and a few Jews in port cities. The English and the Germans brought along multiple Protestant denominations. Several colonies had an "established" church, which meant that local tax money went to the established denomination. Freedom of religion became a basic American principle, and numerous new movements emerged, many of which became established denominations in their own right.

The Puritans of New England kept in close touch with nonconformists in England, as did the Quakers and the Methodists.

The Church of England (Anglican) was officially established in five Southern colonies, which meant that local taxes paid the salary of the clergy. The parish had civic responsibilities such as poor relief. The local gentry controlled the budget, rather than the clergy. The Crown never appointed a bishop in the American colonies because of

resistance from other churches. Anglicans in America were under the authority of the Bishop of London. He sent out missionaries from England and ordained men from the Colonies to minister there in parishes.

Great Awakening
The First Great Awakening was the nation's first major religious revival, occurring in the middle of the 18th century, and it injected new vigor into Christian faith. It was a wave of religious enthusiasm among Protestants that swept the colonies in the 1730s and 1740s, leaving a permanent impact on American religion. Jonathan Edwards was a key leader and a powerful intellectual in colonial America. George Whitefield came over from England and made many converts.

The Great Awakening emphasized the traditional Reformed virtues of Godly preaching, rudimentary liturgy, and a deep awareness of personal sin and redemption by Christ Jesus, spurred on by powerful preaching that deeply affected listeners. Pulling away from ritual and ceremony, the Great Awakening made religion personal to the average person.

The Awakening had a major impact in reshaping the Congregational, Presbyterian, Dutch Reformed, and German Reformed denominations, and it strengthened the small Baptist and Methodist denominations. It brought Christianity to the slaves and was a powerful event in New England that challenged established authority. It incited rancor and division between the new revivalists and the old traditionalists who insisted on ritual and liturgy. The Awakening had little impact on Anglicans and Quakers.

The First Great Awakening focused on people who were already church members, unlike the Second Great Awakening that began around 1800 and reached out to the unchurched. It changed their rituals, their piety, and their self-awareness. The new style of sermons and the way that people practiced their faith breathed new life into religion in America. People became passionately and emotionally involved in their religion, rather than passively listening to intellectual discourse in a detached manner. Ministers who used this new style of preaching were generally called "new lights", while the traditional-styled preachers were called "old lights".

People began to study the Bible at home, which effectively decentralized the means of informing the public on religious manners and was akin to the individualistic trends present in Europe during the Protestant Reformation.

Enslavement
Enslaved Africans transported to American colonies and later states.

1620–1700.....21,000
1701–1760....189,000
1761–1770.....63,000
1771–1790.....56,000
1791–1800.....79,000

1801–1810....124,000
1810–1865.....51,000
Total 597,000

About 600,000 enslaved Africans were transported into what is now the U.S., or 5% of the 12 million Africans brought from Africa. The great majority went to sugarcane-growing colonies in the Caribbean and to Brazil, where life expectancy was short and the numbers had to be continually replenished. Life expectancy was much greater in the North American colonies because of better food, less disease, lighter workloads, and better medical care, so the numbers grew rapidly by excesses of births over deaths, reaching 4 million by the 1860 Census. From 1770 until 1860, the rate of natural growth of North American enslaved peoples was much greater than for the population of any nation in Europe, and was nearly twice as rapid as that of England.

The Africans are commonly referred to as African slaves, although they were not considered slaves until they were officially purchased by a planter or plantation owner. Those who worked in the indigo, tobacco, and rice fields in the South came from mainly western and central Africa. Slavery in colonial America was very oppressive, as it passed from generation to generation, and slaves had no legal rights.

The colonies that had the most specialization in agricultural production, such as sugar and coffee, and relied the most upon slaves, had the highest per capita (including slaves) income in the New World. However, the slaves did not accrue wages or receive rights; they provided free labor to those who purchased them, receiving just enough to live. They were considered to be in chattel slavery.

In 1700, there were about 9,600 enslaved Africans in the Chesapeake region and a few hundred in the Carolinas. About 170,000 more Africans were forcibly brought over during the next five decades. By 1750, there were more than 250,000 enslaved peoples in British America, and they made up about 60 percent of the total population in the Carolinas.

New England

In New England, the Puritans created self-governing communities of religious congregations of farmers (or yeomen) and their families. High-level politicians gave out plots of land to settlers (or proprietors) who then divided the land amongst themselves. Large portions were usually given to men of higher social standing, but every man who wasn't indentured or criminally bonded had enough land to support a family. Every male citizen had a voice in the town meeting. The town meeting levied taxes, built roads, and elected officials who managed town affairs. The towns did not have courts; that was a function of the county, whose officials were appointed by the state government.

The Congregational Church which the Puritans founded was not automatically joined by all New England residents because of Puritan beliefs that God singled out specific people for salvation. Instead, membership was limited to those who could convincingly

"test" before members of the church that they had been saved. They were known as "the elect" or "Saints."

American Revolution [2]

Between 1776 and 1789, the United States of America emerged as an independent country, creating and ratifying its new constitution and establishing its national government. In order to assert their traditional rights, American Patriots seized control of the colonies and launched a war for independence. The Americans declared independence on July 4, 1776, proclaiming "all men are created equal". Congress raised the Continental Army under the command of General George Washington, forged a military alliance with France and defeated the two main British invasion armies. Nationalists replaced the governing Articles of Confederation to strengthen the federal government's powers of defense and taxation with the Constitution of the United States of America in 1789, still in effect today.

Background

During the seventeenth and eighteenth centuries, the British colonies in America had been largely left to their own devices by the crown; it was called salutary neglect. The colonies were thus largely self-governing; half the white men in America could vote, compared to one percent in Britain. They developed their own political identities and systems which were in many ways separate from those in Britain. This new ideology was a decidedly republican political viewpoint, which rejected royalty, aristocracy, and corruption and called for sovereignty of the people and emphasized civic duty. In 1763 with British victory in the French and Indian War, this period of isolation came to an end with the Stamp Act of 1765. The British government began to impose taxes in a way that deliberately provoked the Americans, who complained that they were alien to the unwritten English Constitution because Americans were not represented in parliament. Parliament said the Americans were "virtually" represented and had no grounds for complaint. From the Stamp Act of 1765 onward, disputes with London escalated. By 1772 the colonists began the transfer of political legitimacy to their own hands and started to form shadow governments built on committees of correspondence that coordinated protest and resistance. They called the First Continental Congress in 1774 to inaugurate a trade boycott against Britain. Thirteen colonies were represented at the Congress. The other British colonies were under tight British control and did not rebel

When resistance in Boston culminated in the Boston Tea Party in 1773 with the dumping of taxed tea shipments into the harbor, London imposed the Intolerable Acts on the colony of Massachusetts, ended self-government, and sent in the Army to take control. The Patriots in Massachusetts and the other colonies readied their militias and prepared to fight

Military Hostilities Begin

On April 19, 1775, the royal military governor sent a detachment of troops to seize gunpowder and arrest local leaders in Concord. At Lexington, Massachusetts, shots

[2] Wikipedia

broke out with the Lexington militia, leaving eight colonists dead. The British failed to find their targets in Concord, and as they retreated back to Boston, the British came under continuous assault by upwards of 3,800 militia who had prepared an ambush. The Battle of Lexington and Concord ignited the American Revolutionary War. As news spread, local shadow governments (called "committees of correspondence") in each of the 13 colonies drove out royal officials and sent militiamen to Boston to besiege the British there.

The Second Continental Congress met in Philadelphia, Pennsylvania, in the aftermath of armed clashes in April. With all thirteen colonies represented, it immediately began to organize itself as a central government with control over the army and diplomacy and instructed the colonies to write constitutions for themselves as states. On June 1775, George Washington, a charismatic Virginia political leader with combat experience was unanimously appointed commander of a newly organized Continental Army. He took command in Boston and sent for artillery to barrage the British. In every state, a minority professed loyalty to the King, but nowhere did they have power. These Loyalists were kept under close watch by standing Committees of Safety created by the Provincial Congresses. The unwritten rule was such people could remain silent, but vocal or financial or military support for the King would not be tolerated. The estates of outspoken Loyalists were seized; they fled to British-controlled territory, especially New York City.

Invasion of Canada

During the winter of 1775–76, an attempt by the Patriots to capture Quebec failed, and the buildup of British forces at Halifax, Nova Scotia, precluded that colony from joining the 13 colonies. The Americans were able to capture a British fort at Ticonderoga, New York, and to drag its cannon over the snow to the outskirts of Boston. The appearance of troops and a cannon on Dorchester Heights outside Boston led the British Army to evacuate the city on March 17, 1776.

Declaration of Independence

On July 2, 1776, the Second Continental Congress, still meeting in Philadelphia, voted unanimously to declare the independence as the "United States of America". Two days later, on July 4, Congress adopted the Declaration of Independence. The drafting of the Declaration was the responsibility of a Committee of Five, which included, among others, John Adams and Benjamin Franklin; it was drafted by Thomas Jefferson and revised by the others and the Congress as a whole. It contended that "all men are created equal" with "certain unalienable rights, that among these are life, liberty, and the pursuit of happiness", and that "to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed", as well as listing the main colonial grievances against the crown. July 4 ever since has been celebrated as the birthday of the United States.

Campaigns of 1776 and 1777

The British returned in force in August 1776, landing in New York and defeating the fledgling Continental Army at the Battle of Long Island in one of the largest

engagements of the war. They quickly seized New York City and nearly captured General Washington and his army. The British made the city their main political and military base of operations in North America, holding it until late 1783. Patriot evacuation and British military occupation made the city the destination for Loyalist refugees, and a focal point of Washington's intelligence network. The British soon seized New Jersey, and American fortunes looked dim; Thomas Paine proclaimed "these are the times that try men's souls". But Washington struck back in a surprise attack, crossing the icy Delaware River into New Jersey and defeated British armies at Trenton and Princeton, thereby regaining New Jersey. The victories gave an important boost to Patriots at a time when morale was flagging, and have become iconic images of the war.

In early 1777, a grand British strategic plan, the Saratoga Campaign, was drafted in London. The plan called for two British armies to converge on Albany, New York from the north and south, dividing the colonies in two and separating New England from the rest. Failed communications and poor planning resulted in the army descending from Canada, commanded by General John Burgoyne, bogging down in dense forest north of Albany. Meanwhile, the British Army that was supposed to advance up the Hudson River to meet Burgoyne went instead to Philadelphia, in a vain attempt to end the war by capturing the American capital city. Burgoyne's army was overwhelmed at Saratoga by a swarming of local militia, spearheaded by a cadre of American regulars. The battle showed the British, who had until then considered the colonials a ragtag mob that could easily be dispersed, that the Americans had the strength and determination to fight on. Said one British officer:

> The courage and obstinacy with which the Americans fought were the astonishment of everyone, and we now became fully convinced that they are not that contemptible enemy we had hitherto imagined them, incapable of standing a regular engagement, and that they would only fight behind strong and powerful works.

The American victory at Saratoga led the French into an open military alliance with the United States through the Treaty of Alliance (1778). France was soon joined by Spain and the Netherlands, both major naval powers with an interest in undermining British strength. Britain now faced a major European war, and the involvement of the French navy neutralized their previous dominance of the war on the sea. Britain was without allies and faced the prospect of invasion across the English Channel.

The British Move South, 1778–1783

With the British in control of most northern coastal cities and Patriot forces in control of the hinterlands, the British attempted to force a result by a campaign to seize the southern states. With limited regular troops at their disposal, the British commanders realized that success depended on a large-scale mobilization of Loyalists.

In late December 1778, the British had captured Savannah. In 1780 they launched a fresh invasion and took Charleston as well. A significant victory at the Battle of Camden

meant that the invaders soon controlled most of Georgia and South Carolina. The British set up a network of forts inland, hoping the Loyalists would rally to the flag. Not enough Loyalists turned out, however, and the British had to move out. They fought their way north into North Carolina and Virginia, with a severely weakened army. Behind them, much of the territory they left dissolved into a chaotic guerrilla war, as the bands of Loyalists, one by one, were overwhelmed by the patriots.

The Siege of Yorktown Ended with the Surrender of a British Army, Ending Most of The Fighting

The British army under Lord Cornwallis marched to Yorktown, Virginia where they expected to be rescued by a British fleet. When that fleet was defeated by a French fleet, however, they were trapped, and were surrounded by a much stronger force of Americans and French under Washington's command. On October 1781, Cornwallis surrendered..

News of the defeat effectively ended the fighting in America, although the naval war continued. Support for the conflict had never been strong in Britain, where many sympathized with the rebels, but now it reached a new low. King George III personally wanted to fight on, but he lost control of Parliament, and had to agree to peace negotiations.

Peace and Memory [3]

Long negotiations resulted in the Treaty of Paris (1783), which provided highly favorable boundaries for the United States; it included nearly all land east of the Mississippi River and south of Canada, except British West Florida, which was awarded to Spain. Encompassing a vast region nearly as large as Western Europe, the western territories contained a few thousand American pioneers and tens of thousands of Indians, most of whom had been allied to the British but were now abandoned by London.

Every nation constructs and honors the memory of its founding, and following generations use it to establish its identity and define patriotism. The memory of the Founding and the Revolution has long been used as a political weapon. For example, the right-wing "Tea Party movement" of the 21st century explicitly memorialized the Boston Tea Party as a protest against intrusive government.

The Patriot reliance on Catholic France for military, financial and diplomatic aid led to a sharp drop in anti-Catholic rhetoric. Indeed the king replaced the pope as the demon patriots had to fight against. Anti-Catholicism remained strong among Loyalists, some of whom went to Canada after the war while 80% remained in the new nation. By the 1780s, Catholics were extended legal toleration in all of the New England states that previously had been so hostile. "In the midst of war and crisis, New Englanders gave up not only their allegiance to Britain but one of their most dearly held prejudices."

Historians have portrayed the Revolution became the main source of the non-denominational "American civil religion" that has shaped patriotism, and the memory

[3] Wikipedia & other sources

and meaning of the nation's birth ever since. Key events and people were viewed as icons of fundamental virtues. Thus the Revolution produced a Moses-like leader (George Washington), prophets (Thomas Jefferson, Tom Paine), disciples (Alexander Hamilton, James Madison) and martyrs (Boston Massacre, Nathan Hale), as well as devils (Benedict Arnold). There are sacred places (Valley Forge, Bunker Hill), rituals (Boston Tea Party), emblems (the new flag), sacred days (Independence Day), and sacred scriptures whose every sentence is carefully studied (The Declaration of Independence, the Constitution and the Bill of Rights).

Critical Period: 1783–1789

During the 1780s, the nation was a loose confederation of 13 states and was beset with a wide array of foreign and domestic problems. The states engaged in small scale trade wars against each other, and they had difficulty suppressing insurrections such as Shays Rebellion in Massachusetts. The treasury was empty and there was no way to pay the war debts. There was no national executive authority. The world was at peace and the economy flourished. Some historians depict a bleak challenging time for the new nation. Merrill Jensen and others say the term “Critical Period” is exaggerated, and that it was also a time of economic growth and political maturation.

Articles of Confederation

The Treaty of Paris left the United States independent and at peace but with an unsettled governmental structure. The Second Continental Congress had drawn up Articles of Confederation on November 15, 1777, to regularize its own status. These described a permanent confederation, but granted to the Congress—the only federal institution—little power to finance itself or to ensure that its resolutions were enforced. There was no president and no judiciary.

Although historians generally agree that the Articles were too weak to hold the fast-growing nation together, they do give Congress credit for resolving the conflict between the states over ownership of the western territories. The states voluntarily turned over their lands to national control. The Land Ordinance of 1785 and Northwest Ordinance created territorial government, set up protocols for the admission of new states, the division of land into useful units, and set aside land in each township for public use. This system represented a sharp break from imperial colonization, as in Europe, and provided the basis for the rest of American continental expansion through the 19th Century.

By 1783, with the end of the British blockade, the new nation was regaining its prosperity. However, trade opportunities were restricted by the mercantilist policies of the European powers. Before the war the Americans had shipped food and other products to the British colonies in the Caribbean, but now these ports were closed, since only British ships could trade there. France and Spain had similar policies for their empires. The former imposed restrictions on imports of New England fish and Chesapeake tobacco. New Orleans was closed by the Spanish, hampering settlement of the West, although it didn't stop frontiersmen from pouring west in great numbers. Simultaneously, American manufacturers faced sharp competition from British products

which were suddenly available again. The inability of the Congress to redeem the currency or the public debts incurred during the war, or to facilitate trade and financial links among the states aggravated a gloomy situation. In 1786–87, Shays's Rebellion, an uprising of farmers in western Massachusetts against the state court system, threatened the stability of state government and the Congress was powerless to help.

The Continental Congress did have power to print paper money; it printed so much that its value plunged until the expression "not worth a continental" was used for some worthless item. Congress could not levy taxes and could only make requisitions upon the states, which did not respond generously. Less than a million and a half dollars came into the treasury between 1781 and 1784, although the states had been asked for two million in 1783 alone. In 1785, Alexander Hamilton issued a curt statement that the Treasury had received absolutely no taxes from New York for the year.

States handled their debts with varying levels of success. The South for the most part refused to pay its debts off, which was damaging to local banks, but Virginia, North Carolina, and Georgia fared well due to their production of cash crops such as cotton and tobacco. South Carolina would have done the same except for a series of crop failures. Maryland suffered from financial chaos and political infighting. New York and Pennsylvania fared well, although the latter also suffered from political quarrels. New Jersey, New Hampshire, Delaware, and Connecticut struggled. Massachusetts was in a state of virtual civil war (see above) and suffered from high taxes and the decline of its economy. Rhode Island alone among the New England states prospered and mostly because of its notorious harboring of pirates and smugglers.

When Adams went to London in 1785 as the first representative of the United States, he found it impossible to secure a treaty for unrestricted commerce. Demands were made for favors and there was no assurance that individual states would agree to a treaty. Adams stated it was necessary for the states to confer the power of passing navigation laws to Congress, or that the states themselves pass retaliatory acts against Great Britain. Congress had already requested and failed to get power over navigation laws. Meanwhile, each state acted individually against Great Britain to little effect. When other New England states closed their ports to British shipping, Connecticut hastened to profit by opening its ports.

By 1787 Congress was unable to protect manufacturing and shipping. State legislatures were unable or unwilling to resist attacks upon private contracts and public credit. Land speculators expected no rise in values when the government could not defend its borders nor protect its frontier population.

The idea of a convention to revise the Articles of Confederation grew in favor. Alexander Hamilton realized while serving as Washington's top aide that a strong central government was necessary to avoid foreign intervention and allay the frustrations due to an ineffectual Congress. Hamilton led a group of like-minded nationalists, won Washington's endorsement, and convened the Annapolis Convention in 1786 to petition

Congress to call a constitutional convention to meet in Philadelphia to remedy the long-term crisis.

Constitutional Convention

Congress, meeting in New York, called on each state to send delegates to a Constitutional Convention, meeting in Philadelphia. While the stated purpose of the convention was to amend the Articles of Confederation, many delegates, including James Madison and George Washington, wanted to use it to craft a new constitution for the United States. The Convention convened in May 1787 and the delegates immediately selected Washington to preside over them. Madison soon proved the driving force behind the Convention, engineering the compromises necessary to create a government that was both strong and acceptable to all of the states. The Constitution, proposed by the Convention, called for a federal government—limited in scope but independent of and superior to the states—within its assigned role able to tax and equipped with both Executive and Judicial branches as well as a two house legislature. The national legislature—or Congress—envisioned by the Convention embodied the key compromise of the Convention between the small states which wanted to retain the power they had under the one state/one vote Congress of the Articles of Confederation and the large states which wanted the weight of their larger populations and wealth to have a proportionate share of power. The upper House—the Senate—would represent the states equally, while the House of Representatives would be elected from districts of approximately equal population.

The Constitution itself called for ratification by state conventions specially elected for the purpose, and the Confederation Congress recommended the Constitution to the states, asking that ratification conventions be called.

Several of the smaller states, led by Delaware, embraced the Constitution with little reservation. But in the most populous two states, New York and Virginia, the matter became one of controversy. Virginia had been the first successful British colony in North America, had a large population, and its political leadership had played prominent roles in the Revolution. New York was likewise large and populous; with the best situated and sited port on the coast, the state was essential for the success of the United States. Local New York politics were tightly controlled by a parochial elite led by Governor George Clinton, and local political leaders did not want to share their power with the national politicians. The New York ratification convention became the focus for a struggle over the wisdom of adopting the Constitution.

Struggle for Ratification

Those who advocated the Constitution took the name Federalists and quickly gained supporters throughout the nation. The most influential Federalists were Alexander Hamilton and James Madison, the anonymous authors of The Federalist Papers, a series of 85 essays published in New York newspapers, under the pen name "Publius". The papers became seminal documents for the new United States and have often been cited by jurists. These were written to sway the closely divided New York legislature.

Opponents of the plan for stronger government, the Anti-Federalists, feared that a government with the power to tax would soon become as despotic and corrupt as Great Britain had been only decades earlier. The most notable Anti-federalist writers included Patrick Henry and George Mason, who demanded a Bill of Rights in the Constitution.

The Federalists gained a great deal of prestige and advantage from the approval of George Washington, who had chaired the Constitutional Convention. Thomas Jefferson, serving as Minister to France at the time, had reservations about the proposed Constitution. He resolved to remain neutral in the debate and to accept either outcome.

Promises of a Bill of Rights from Madison secured ratification in Virginia, while in New York, the Clintons, who controlled New York politics, found themselves outmaneuvered as Hamilton secured ratification by a 30–27 vote. North Carolina and Rhode Island eventually signed on to make it unanimous among the 13 states.

The old Confederation Congress now set elections to the new Congress as well as the first presidential election. The electoral college unanimously chose Washington as first President; John Adams became the first Vice President. New York was designated as the national capital; they were inaugurated in April 1789 at Federal Hall.

Under the leadership of Madison, the first Congress set up all the necessary government agencies, and made good on the Federalist pledge of a Bill of Rights. The new government at first had no political parties. Alexander Hamilton in 1790–92 created a national network of friends of the government that became the Federalist party; it controlled the national government until 1801.

However, there continued to be a strong sentiment in favor of states' rights and a limited federal government. This became the platform of a new party, the Republican or Democratic-Republican Party, which assumed the role of opposition to the Federalists. Jefferson and Madison were its founders and leaders. The Democratic-Republicans strongly opposed Hamilton's First Bank of the United States. American foreign policy was dominated by the outbreak of the French Revolutionary Wars between the United Kingdom and France. The Republicans supported France, encouraging the French Revolution as a force for democracy, while the Washington administration favored continued peace and commerce with Britain, signing the Jay Treaty much to the disgust of Democratic-Republicans, who accused Hamilton and the Federalists of supporting aristocracy and tyranny. John Adams succeeded Washington as President in 1797 and continued the policies of his administration. The Jeffersonian Republicans took control of the Federal government in 1801 and the Federalists never returned to power.

American Civil War [4]

The American Civil War (also known by other names) was a war (although a Declaration of War was never issued by neither the United States Congress, nor the Congress of the Confederate States) fought in the United States from 1861 to 1865. As a result of the long-standing controversy over slavery, war broke out in April 1861, when

[4] Wikipedia & other sources

Confederate forces attacked Fort Sumter in South Carolina, shortly after U.S. President Abraham Lincoln was inaugurated. The nationalists of the Union proclaimed loyalty to the U.S. Constitution. They faced secessionists of the Confederate States, who advocated for states' rights to expand slavery.

Among the 34 U.S. states in February 1861, seven Southern slave states individually declared their secession from the U.S. to form the Confederate States of America, or the South. The Confederacy grew to include eleven slave states. The Confederacy was never diplomatically recognized by the United States government, nor was it recognized by any foreign country (although the United Kingdom and France granted it belligerent status). The states that remained loyal to the U.S. (including the border states where slavery was legal) were known as the Union or the North.

The Union and Confederacy quickly raised volunteer and conscription armies that fought mostly in the South over the course of four years. The Union finally won the war when General Robert E. Lee surrendered to General Ulysses S. Grant at the Battle of Appomattox Court House, followed by a series of surrenders by Confederate generals throughout the southern states. Four years of intense combat left 620,000 to 750,000 people dead, more than the number of U.S. military deaths in all other wars combined (at least until approximately the Vietnam War). Much of the South's infrastructure was destroyed, especially the transportation systems. The Confederacy collapsed, slavery was abolished, and 4 million slaves were freed. The Reconstruction Era (1863–1877) overlapped and followed the war, with the process of restoring national unity, strengthening the national government, and granting civil rights to freed slaves throughout the country. The Civil War is the most studied and written about episode in U.S. history.

Overview

In the 1860 presidential election, Republicans, led by Abraham Lincoln, supported banning slavery in all the U.S. territories. The Southern states viewed this as a violation of their constitutional rights and as the first step in a grander Republican plan to eventually abolish slavery. The three pro-Union candidates together received an overwhelming 82% majority of the votes cast nationally: Republican Lincoln's votes centered in the north, Democrat Stephen A. Douglas' votes were distributed nationally and Constitutional Unionist John Bell's votes centered in Tennessee, Kentucky, and Virginia. The Republican Party, dominant in the North, secured a plurality of the popular votes and a majority of the electoral votes nationally, thus Lincoln was constitutionally elected president. He was the first Republican Party candidate to win the presidency. However, before his inauguration, seven slave states with cotton-based economies declared secession and formed the Confederacy. The first six to declare secession had the highest proportions of slaves in their populations, a total of 49 percent. Of those states whose legislatures resolved for secession, the first seven voted with split majorities for unionist candidates Douglas and Bell (Georgia with 51% and Louisiana with 55%), or with sizable minorities for those unionists (Alabama with 46%, Mississippi with 40%, Florida with 38%, Texas with 25%, and South Carolina, which cast Electoral

College votes without a popular vote for president. Of these, only Texas held a referendum on secession.

Eight remaining slave states continued to reject calls for secession. Outgoing Democratic President James Buchanan and the incoming Republicans rejected secession as illegal. Lincoln's March 4, 1861, inaugural address declared that his administration would not initiate a civil war. Speaking directly to the "Southern States", he attempted to calm their fears of any threats to slavery, reaffirming, "I have no purpose, directly or indirectly to interfere with the institution of slavery in the United States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so." After Confederate forces seized numerous federal forts within territory claimed by the Confederacy, efforts at compromise failed and both sides prepared for war. The Confederates assumed that European countries were so dependent on "King Cotton" that they would intervene, but none did, and none recognized the new Confederate States of America.

Hostilities began on April 12, 1861, when Confederate forces fired upon Fort Sumter. While in the Western Theater the Union made significant permanent gains, in the Eastern Theater, the battle was inconclusive from 1861–1862. Later, in 1863, Lincoln issued the Emancipation Proclamation, which made ending slavery a war goal. To the west, by summer 1862 the Union destroyed the Confederate river navy, then much of their western armies, and seized New Orleans. The 1863 Union Siege of Vicksburg split the Confederacy in two at the Mississippi River. In 1863, Robert E. Lee's Confederate incursion north ended at the Battle of Gettysburg. Western successes led to Ulysses S. Grant's command of all Union armies in 1864. Inflicting an ever-tightening naval blockade of Confederate ports, the Union marshaled the resources and manpower to attack the Confederacy from all directions, leading to the fall of Atlanta to William T. Sherman and his march to the sea. The last significant battles raged around the Siege of Petersburg. Lee's escape attempt ended with his surrender at Appomattox Court House, on April 9, 1865. While the military war was coming to an end, the political reintegration of the nation was to take another 12 years, known as the Reconstruction Era.

The American Civil War was one of the earliest true industrial wars. Railroads, the telegraph, steamships and iron-clad ships, and mass-produced weapons were employed extensively. The mobilization of civilian factories, mines, shipyards, banks, transportation and food supplies all foreshadowed the impact of industrialization in World War I, World War II and subsequent conflicts. It remains the deadliest war in American history. From 1861 to 1865, it is estimated that 620,000 to 750,000 soldiers died,[21] along with an undetermined number of civilians.[c] By one estimate, the war claimed the lives of 10 percent of all Northern males 20–45 years old, and 30 percent of all Southern white males aged 18–40

United States Government

The government of the United States is a massive and complex organization. Its purpose is to improve and protect the lives of American citizens, both at home and overseas. Because its functions are so numerous and varied, the government operates on several different levels--national, state, and local. At each of these levels the government makes certain demands on its citizens. But this is only to promote the general welfare of the society as a whole.

For example, the government requires its citizens to pay taxes. But in return it provides them with valuable services, such as free public education and police-patrolled streets. The government guarantees its citizens certain rights, such as the freedom to practice their chosen religion. But it restricts them from engaging in other activities, such as driving over the speed limit or paying an employee less than the minimum wage. The government also protects its citizens from foreign threats. But to do so it reserves the right to draft young men into military service whenever it is considered necessary.

The American System of Government

Many terms describe the United States government. First of all, it is a democracy. This means the people rule. It is also a representative government. The people elect leaders who will represent their viewpoint when making government decisions. It is also a republic. This means that the chief of state (the president) is elected by the people. This is unlike a monarchy, where the throne is inherited through a family dynasty. The United States government is also a constitutional government. It operates according to a set of laws and principles that are outlined in a constitution. And finally, it is an example of the federal system of government. This means that the national government shares responsibilities with the state and municipal governments.

Allowing for this division of powers in the Constitution was purely an American invention. Section 8 of Article I of the Constitution specifically lists the duties of the national government. These are called delegated powers. The Constitution also gives the states authority in certain matters. These are called residual powers. Duties shared by both the state governments and the national government are called concurrent powers.

Who Works for the Government?

When most people think of the American government, they think of the president of the United States. In fact, he may be the most recognized leader in the entire world. However, the government is made up of millions of people. Among them are diplomats, soldiers, federal law enforcement officers, congressmen and congresswomen, senators, the president, and the Supreme Court justices. The government also employs office workers, tax collectors, scientists, and people in hundreds of other professions.

Some United States government employees are elected to their positions by the people they represent. Many others belong to the civil service, a permanent corps of government workers. Still others are appointed to their positions by elected officials. Or

they may belong to the United States Armed Forces. Most of these employees work in Washington, D.C., the nation's capital. But many are stationed in thousands of other locations, across the United States and around the world.

How the Federal Government is Organized
During the summer of 1787, 55 delegates gathered in Philadelphia to draft a new constitution for the United States. The country had recently won its independence from England. The founders wanted to create a national government that would be strong enough to defend the country and be able to negotiate trade agreements with foreign nations. But at the same time, they did not want to make the government so powerful that it could take control away from the people.

Therefore, to limit the government's authority, the founders came up with the concept of separation of powers. This system limits the power of government by dividing authority among three separate, but equally powerful, branches. The legislative branch writes the laws; the executive branch carries out the laws; and the judicial branch reviews the way laws are applied.

This separation is achieved symbolically in the Constitution itself. (Each branch is described in a separate article.) Symbolism is also evident in the physical headquarters of each branch in Washington, D.C.--the legislative in the Capitol; the executive in the White House; and the judicial in the Supreme Court Building. The Constitution also states that no individual may hold office in more than one branch at a time. The one exception is the vice president, who serves in both the executive and the legislative branches.

The separation of powers also allows for a system of checks and balances within the government. Each branch is given certain control over the other two. This balances the power and keeps the potential for abuse of power in check.

It is important to remember, however, that although power may be balanced within the government, it does not come from the government. The most important provision the Constitution makes is that the government must derive its power from the people. In fact, the very first words of the Constitution are, "We the People of the United States…," a phrase the founders chose very carefully. It is the people who give the power to the government and limit what it can do. The people elect government officials to direct the government's activities. And the people can elect new officials to replace those whose policies have become unpopular. The American system is thus divided, limited, and democratically controlled.

THE BILL OF RIGHTS – U.S. Constitution
The first 10 amendments of the Constitution and are known as The Bill of Rights.

Amendment I
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of

the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II
A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment III
No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI
In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII
In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX
The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X
The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Other Amendments

Amendment XI
The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment XIII
The Thirteenth Amendment (1865) abolished slavery and involuntary servitude, except as punishment for a crime, and authorized Congress to enforce abolition. Though millions of slaves had been declared free by the 1863 Emancipation Proclamation, their post Civil War status was unclear, as was the status of other millions. Congress intended the Thirteenth Amendment to be a proclamation of freedom for all slaves throughout the nation and to take the question of emancipation away from politics. This amendment rendered inoperative or moot several of the original parts of the constitution.

Amendment XIV
The Fourteenth Amendment (1868) granted United States citizenship to former slaves and to all persons "subject to U.S. jurisdiction". It also contained three new limits on state power: a state shall not violate a citizen's privileges or immunities; shall not deprive any person of life, liberty, or property without due process of law; and must guarantee all persons equal protection of the laws. These limitations dramatically expanded the protections of the Constitution. This amendment, according to the Supreme Court's Doctrine of Incorporation, makes most provisions of the Bill of Rights applicable to state and local governments as well. The mode of apportionment of representatives delineated in Article 1, Section 2, Clause 3 has been superseded by that of this amendment.

Amendment XV
The Fifteenth Amendment (1870) prohibits the use of race, color, or previous condition of servitude in determining which citizens may vote. The last of three post Civil War Reconstruction Amendments, it sought to abolish one of the key vestiges of slavery and to advance the civil rights and liberties of former slaves.

Amendment XVI
The Sixteenth Amendment (1913) removed existing Constitutional constraints that limited the power of Congress to lay and collect taxes on income. Specifically, the apportionment constraints delineated in Article 1, Section 9, Clause 4 have been removed by this amendment, which also overturned an 1895 Supreme Court decision, in Pollock v. Farmers' Loan & Trust Co., that declared a federal income tax on rents, dividends, and interest unconstitutional. This amendment has become the basis for all subsequent federal income tax legislation and has greatly expanded the scope of federal taxing and spending in the years since.

Amendment XII
17th Amendment to the U.S. Constitution: Direct Election of U.S. Senators. Americans did not directly vote for senators for the first 125 years of the Federal Government. The Constitution, as it was adopted in 1788, stated that senators would be elected by state legislatures.

Amendment XIII
This unpopular amendment banned the sale and drinking of alcohol in the United States. This amendment took effect in 1919 and was a huge failure. Not only did regular people find other ways to drink alcohol, criminals made a lot of money selling alcohol to those people. The 21st amendment repeals the 18th amendment in 1933, and today we call the period that the 18th Amendment was law Prohibition.

Amendment XIX
The Nineteenth Amendment (1920) prohibits the government from denying women the right to vote on the same terms as men. Prior to the amendment's adoption, only a few states permitted women to vote and to hold office.

Amendment XXII
After FDR died in 1945, many Americans began to recognize that having a president serve more than eight years was bad for the country. This led to the 22nd amendment, which was passed by Congress in 1947 and ratified by the states by 1951.

Amendment XXVI
Lowered the voting age from 21 to 18.

Branches of Government
There are three branches of government: Executive, Legislative and Judicial. One branch of government cannot hold total power. All three are needed to make the government run.

Terms of Office
Each branch of government has specific terms of office.

President- 4 year term and no more than 2 terms

House of Representative- 2 year terms
Senate- 6 year terms
Judiciary, Article 3, Courts- Lifetime appointment

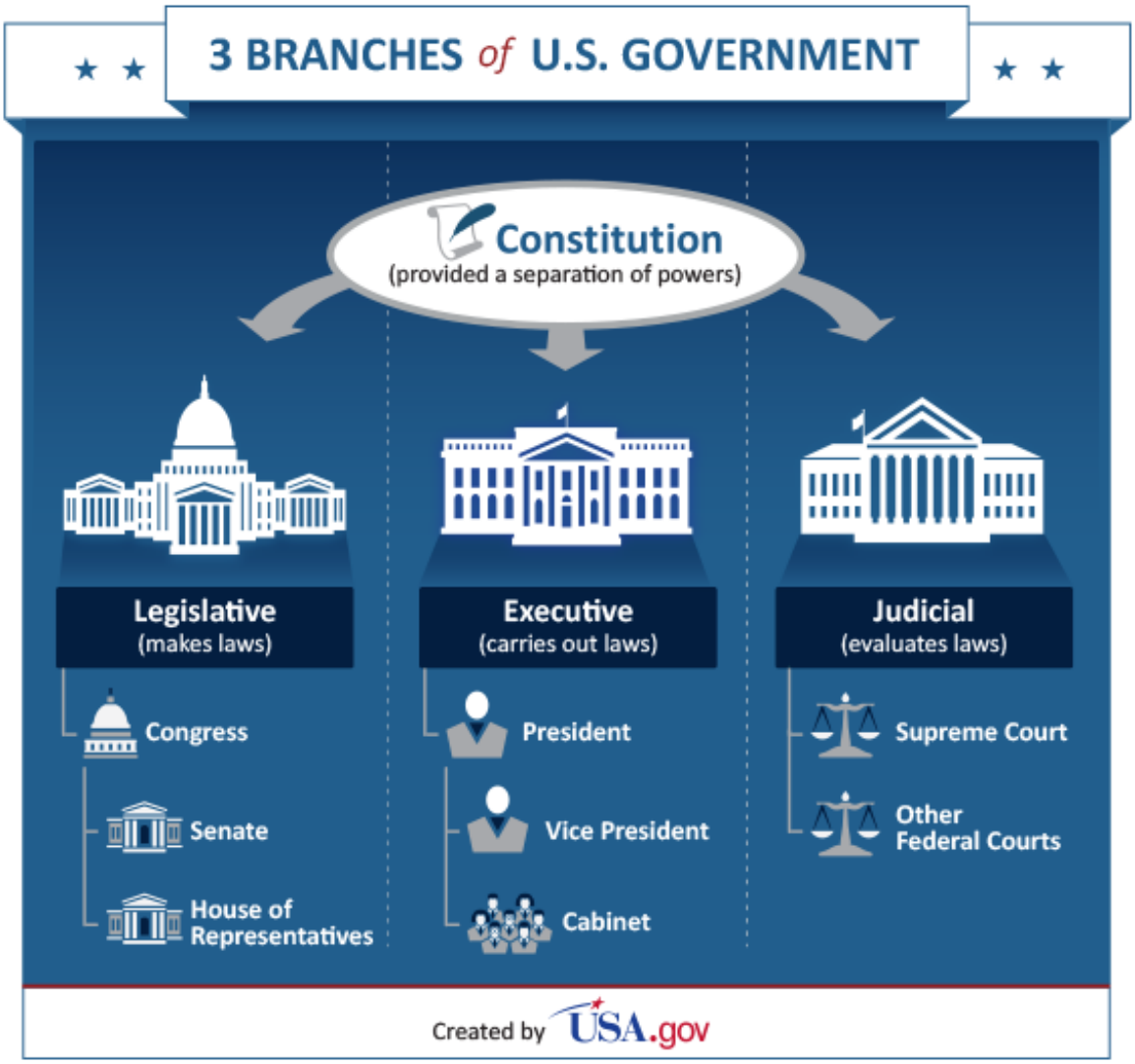
Legislative Branch

House of Representatives 435 representatives apportioned among districts of equal population
Senate 2 Senators per state for a total of 100

Political Parties
The United States has 2 dominant political parties., Republicans and Democrats. Since 1860 these 2 parties are the only parties which have held the presidency. There are several minor parties and none has ever held a significant number of legislative seats. The basic views of the respective parties are as follows

Republicans	**Democrats**
• Conservative	• Progressive or liberal
• Most elective representatives oppose abortion	• Most elective representatives support abortion rights
• Most are strong advocates of a broad interpretation 2nd Amendment of the right to bear arms	• Most favor more gun controls
• Many are climate change deniers	• Most believe in climate change
• Majority of fundamentalist Christians support party	• More Jews, Muslims & less fundamentalist Christians support party
• Strong Republican majorities in most rural areas	• Strong Democratic majorities in most urban areas
• Strong advocates of states' rights	• Advocates for a strong federal government
• Oppose many social welfare programs including Obama Care	• Support social welfare programs
• Always campaign to cut taxes even when the government runs a deficit	• Support higher taxes to pay for programs and reduce deficit
• Many oppose same sex marriage	• Majority support same sex marriage
• Almost always in favor of cutting federal programs	• More likely to support federal programs
• More likely to support the interest of businesses	• More likely to support unions and working individuals
• Support a broad view of gun rights	• Support restrictions on gun rights gun rights
• Pro-military and more likely to commit troops to war	• Generally favor controlling defense spending

Republicans	Democrats
Prior to President Trump likely to support a hard line toward Russia	Prior to Trump more likely to seek accommodation with Russia



The Legislative Branch (The Congress)
The framers of the Constitution gave more space to the legislature (lawmaking) branch of the government than to the other two branches combined. Article I of the Constitution specifies that there shall be two separate legislative bodies--a House of Representatives and a Senate. Together they are called the Congress. The two bodies of Congress work together to make the laws and regulations for the country.

The task of reviewing and passing legislation is extremely complex. Congress has built up a staff of more than 10,000 assistants to help perform these jobs more thoroughly. Each senator and representative has a personal staff. Some work on legislation in

Washington, D.C., while others work with constituents from the member's home state or district who might request help from their members of Congress. The Congress also has a number of agencies designed to assist in various aspects of the legislative process. One of the best known is the Library of Congress. It houses the nation's most complete collection of books and also provides research services for congressional offices. Another well-known agency is the Congressional Budget Office. It provides assistance to those in Congress who evaluate the amount of money government should spend each year.

The number of ideas for legislative action introduced into the Congress is truly astounding. In a typical two-year session, more than 10,000 bills are submitted for consideration. The House and Senate cannot possibly deal with this many matters. So over the years they have arrived at a system that divides the labor among smaller groups called standing committees. Each committee focuses on a specific set of issues.

While the committees of the two houses of Congress handle much of the same legislation, some differences do exist. The Constitution states that all legislation that raises money, for the government through taxation must originate in the House of Representatives (Article I, Section 7). This provision is a holdover from the time when senators were not directly elected and citizens rejected the practice of "taxation without representation". This was one of the primary grievances that led to the American Revolution. On the other hand, the Constitution requires that treaties made by the president with other nations can only take effect with the "advice and consent", or approval, of the Senate (Article II, Section 2). Due to these constitutional conditions, House members are often thought to be more expert on fiscal, or financial, matters, while senators are deemed more knowledgeable of foreign affairs.

The main powers of Congress are to raise money for use by the government and to decide in broad terms how to spend it. Congress does its work by considering bills (or proposed laws) that have been introduced by its members. There are three major categories of bills considered by Congress. Most bills are authorization bills. They create and set goals for government programs. Appropriations bills are requests for money to fund these programs. And revenue bills are designed to raise money through taxation, and other means.

The president also has a hand in the lawmaking process. Each year the executive branch presents a budget to the Congress. It outlines the funds the president and the executive departments would like to spend. Congress considers the president's plan but usually changes it in many ways.

The Congress has many other important powers. It may officially declare war on another country. It may raise and pay for armed forces. It establishes federal courts of law. It regulates trade with other countries. It may also impeach, or bring charges against, any member of the executive branch suspected of committing a crime.

The House of Representatives
The House of Representatives ("the House") has 435 voting members. Its members are called representatives (or congressmen and congresswomen). The members serve 2-year terms. Elections are held in November of even-numbered years, and the representatives take office the following January.

Representatives represent the people who live in a congressional district. Each of the 435 districts has about the same number of people. The states with the smallest populations have one representative (called "representatives-at-large"). The state with the biggest population (California) has 53. The number of representatives each state elects is refigured every ten years. It is based on a national census (counting) of the population.

The members of the House of Representatives choose their own leader, called the Speaker of the House. The Speaker belongs to the majority party. This is the political party to which more than half--the majority--of representatives belong. The Speaker plays an active role in setting the legislative agenda. The agenda determines which bills will be voted on and in what order. The Speaker is assisted by the House majority leader. The House majority leader, in turn, is assisted by the House majority whip. All three are elected to their posts by a simple majority (at least one more than half) of all the members of the majority party. Members of the minority party also elect a House minority leader and a House minority whip.

The Senate
The Senate is the smaller of the two houses of Congress. Each state has two senators, regardless of the size of its population. The first Senate had 26 members representing the 13 states. Today there are 100 senators representing 50 states. Each senator is elected to a 6-year term. Every two years, one third of the total members (33 or 34) comes up for election.

The vice president of the United States serves as the president of the Senate. His principal power is deciding an issue in case of a tie vote. On occasion he rules on questions of procedure. But for the most part his role is ceremonial. (Senators also select a president pro tempore, or temporary president, to serve in the vice president's absence. Traditionally they select the majority party member who has served the longest time in the Senate.) Actual leadership in the Senate is exercised by the Senate majority leader and the Senate minority leader. (For more information, including the names of the current U.S. representatives and senators, see the article United States, Congress of the.)

The Executive Branch (The President and His Advisors)
The executive branch of the government is described in Article II of the Constitution. Much of it explains a presidential election procedure that was later changed by the Twelfth Amendment. Today presidential candidates are elected to 4-year terms through a complicated system known as the electoral college. To win an election, a candidate

must receive a majority of electoral votes cast by the states. If no candidate wins such a majority, the House of Representatives decides who will become president. The Senate decides who will become vice president.

The President's Many Roles

The president is the chief executive, or chief administrator, of the United States. His job is to manage all of the people who work in the executive branch and to make sure the laws of the nation are enforced. He also holds the title chief of state. This means he is the foremost representative of the nation. As such, he performs ceremonial duties and meets with the leaders of foreign nations.

In addition to his executive responsibilities, the president has certain legislative and judicial powers. More than any other person, he is responsible for legislation. He may suggest legislation to Congress that he feels will improve the "state of the union." He might work closely with congressional leaders to see that his ideas are carefully considered. The president may also veto (reject) legislation that he feels should not become law.

The president also holds certain judicial powers. He recommends candidates for the position of attorney general, who heads up the executive Department of Justice. He nominates Supreme Court justices (judges), federal court justices, and U.S. district attorneys whenever there are vacancies. And, except in cases involving impeachment of a government official, he has the power to pardon criminals.

In addition to these duties, the president is also the commander in chief of the United States Armed Forces. The fact that the U.S. armed forces are led by the president, who is a civilian and not a military officer, is an important aspect of the American government. It guarantees democratic control over this enormously powerful organization within the government.

As head of the diplomatic corps, the president can make treaties with foreign countries. He can also appoint U.S. ambassadors and receive visits from foreign ambassadors and heads of state.

Although his job is an enormous one, the president is assisted by a large number of close associates. He appoints key advisers to head up the various executive departments, bureaus, offices, and agencies.

All together, approximately 3 million civilians and 2 million military personnel work in the executive branch. They are called the president's administration. Every year the offices in which they work issue rules and guidelines. Together they fill up more than 50,000 pages in a series of books called The Federal Register.

For more information, refer to the articles Presidency of the United States and Vice Presidency of the United States.

The Judicial Branch (The Federal Court System)
Article III of the Constitution describes the responsibilities of the judicial branch of the United States government. But Article III says little more than that the nation's judicial power should be in the hands of a Supreme Court and any such lower courts the Congress may decide to create.

The Supreme Court
The highest court in the nation is the United States Supreme Court. It is made up of one chief justice and eight associate justices (judges). They are appointed by presidents with the approval of the Senate. Supreme Court justices may serve for life or until they wish to retire.

The Supreme Court has many important powers. One is the ability to declare laws unconstitutional, or invalid. This is known as the power of judicial review. It allows the Supreme Court to check the power of the other two branches of the federal government as well as that of the state's governments.

The Lower Federal Courts
If the government or a citizen has a case that involves a federal law, the case goes to a federal district court. (This is called a court of original jurisdiction because it is the first to try such cases.) There are 89 district courts in the 50 states, plus one each for the District of Columbia and Puerto Rico. Territorial Courts have also been established for Guam, the Virgin Islands, and the Northern Mariana Islands.

In addition to the district courts, Congress has established four special courts of original jurisdiction. They are the U.S. Tax Court, the U.S. Court of International Trade, the U.S. Court of Military Appeals, and the U.S. Claims Court. All of these courts sit in Washington, D.C.

Those who lose a case in a district court or in one of the specialized courts may take their case to a higher court to appeal the court's decision. The same is true for those who feel they have not been treated fairly. Such cases are brought before a United States Court of Appeals, also known as a circuit court. These courts have appellate jurisdiction. This means they have the authority to hear cases that have already been decided by a lower court. There are 13 U.S. courts of appeals around the country.

The Supreme Court has original jurisdiction in very few cases, and these are specified in the Constitution. For the most part the Supreme Court hears cases that come on appeal from one of the circuit courts or from the high courts of the fifty states. Citizens do not have the right to have their appeals heard by the Supreme Court. In fact, in recent years the Supreme Court has decided to review only about 200 of the approximate 5,000 cases it is asked to consider every year.

The Supreme Court examines cases when the justices feel that important principles of law are in question. Frequently these cases arise when different circuit court justices have interpreted the Constitution in different ways. They also arise when a state court

has acted in a way that might be considered in violation of the federal Constitution. For more information, see the articles Supreme Court of the United States and Courts.

A Government of the People

In the United States, every citizen over the age of 18 can have a voice in the government. All he or she has to do is vote. The United States government is faced with a wide variety of complex problems. Often people cannot agree on possible solutions. But officers of the United States government are free to disagree with each other, and so are the nation's citizens. Some may think the government interferes too much in people's lives. Others believe the government should pass as many laws as it can to keep society in check. This right to disagree with one another, and especially the citizens' right to disagree with the government, is one of the most precious rights guaranteed to Americans by their Constitution.

A More Thorough View of the Federal Court System

The federal court system has three main levels: district courts (the trial court), circuit courts which are the first level of appeal, and the Supreme Court of the United States, the final level of appeal in the federal system. There are 94 district courts, 13 circuit courts, and one Supreme Court throughout the country.

Courts in the federal system work differently in many ways than state courts. The primary difference for civil cases (as opposed to criminal cases) is the types of cases that can be heard in the federal system. Federal courts are courts of limited jurisdiction, meaning they can only hear cases authorized by the United States Constitution or federal statutes. The federal district court is the starting point for any case arising under federal statutes, the Constitution, or treaties. This type of jurisdiction is called “original jurisdiction.” Sometimes, the jurisdiction of state courts will overlap with that of federal courts, meaning that some cases can be brought in both courts. The plaintiff has the initial choice of bringing the case in state or federal court. However, if the plaintiff chooses state court, the defendant may sometimes choose to “remove” to federal court.
Cases that are entirely based on state law may be brought in federal court under the court’s “diversity jurisdiction.” Diversity jurisdiction allows a plaintiff of one state to file a lawsuit in federal court when the defendant is located in a different state. The defendant can also seek to “remove” from state court for the same reason. To bring a state law claim in federal court, all of the plaintiffs must be located in different states than all of the defendants, and the “amount in controversy” must be more than $75,000. (Note: the rules for diversity jurisdiction are much more complicated than explained here.)
Criminal cases may not be brought under diversity jurisdiction. States may only bring criminal prosecutions in state courts, and the federal government may only bring criminal prosecutions in federal court. Also important to note, the principle of double jeopardy – which does not allow a defendant to be tried twice for the same charge – does not apply between the federal and state government. If, for example, the state brings a murder charge and does not get a conviction, it is possible for the federal government in some cases to file charges against the defendant if the act is also illegal under federal law.

Federal judges (and Supreme Court "justices") are selected by the President and confirmed "with the advice and consent" of the Senate and "shall hold their Offices during good Behavior." Judges may hold their position for the rest of their lives, but many resign or retire earlier. They may also be removed by impeachment by the House of Representatives and conviction by the Senate. Throughout history, fourteen federal judges have been impeached due to alleged wrongdoing. One exception to the lifetime appointment is for magistrate judges, which are selected by district judges and serve a specified term.

District Courts

The district courts are the general trial courts of the federal court system. Each district court has at least one United States District Judge, appointed by the President and confirmed by the Senate for a life term. District courts handle trials within the federal court system – both civil and criminal. The districts are the same as those for the U.S. Attorneys, and the U.S. Attorney is the primary prosecutor for the federal government in his or her respective area.

District court judges are responsible for managing the court and supervising the court's employees. They are able to continue to serve so long as they maintain "good behavior," and they can be impeached and removed by Congress. There are over 670 district court judges nationwide.

Some tasks of the district court are given to federal magistrate judges. Magistrates are appointed by the district court by a majority vote of the judges and serve for a term of eight years if full-time and four years if part-time, but they can be reappointed after completion of their term. In criminal matters, magistrate judges may oversee certain cases, issue search warrants and arrest warrants, conduct initial hearings, set bail, decide certain motions (such as a motion to suppress evidence), and other similar actions. In civil cases, magistrates often handle a variety of issues such as pre-trial motions and discovery.

Federal trial courts have also been established for a few subject-specific areas. Each federal district also has a bankruptcy court for those proceedings. Additionally, some courts have nationwide jurisdiction for issues such as tax (United States Tax Court), claims against the federal government (United States Court of Federal Claims), and international trade (United States Court of International Trade).

Circuit Courts

Once the federal district court has decided a case, the case can be appealed to a United States court of appeal. There are twelve federal circuits that divide the country into different regions. The Fifth Circuit, for example, includes the states of Texas, Louisiana, and Mississippi. Cases from the district courts of those states are appealed to the United States Court of Appeals for the Fifth Circuit, which is headquartered in New Orleans, Louisiana. Additionally, the Federal Circuit Court of Appeals has a nationwide jurisdiction over very specific issues such as patents.

Each circuit court has multiple judges, ranging from six on the First Circuit to twenty-nine on the Ninth Circuit. Circuit court judges are appointed for life by the president and confirmed by the Senate.

Any case may be appealed to the circuit court once the district court has finalized a decision (some issues can be appealed before a final decision by making an "interlocutory appeal"). Appeals to circuit courts are first heard by a panel, consisting of three circuit court judges. Parties file "briefs" to the court, arguing why the trial court's decision should be "affirmed" or "reversed." After the briefs are filed, the court will schedule "oral argument" in which the lawyers come before the court to make their arguments and answer the judges' questions.

Though it is rare, the entire circuit court may consider certain appeals in a process called an "en banc hearing." (The Ninth Circuit has a different process for en banc than the rest of the circuits.) En banc opinions tend to carry more weight and are usually decided only after a panel has first heard the case. Once a panel has ruled on an issue and "published" the opinion, no future panel can overrule the previous decision. The panel can, however, suggest that the circuit take up the case en banc to reconsider the first panel's decision.

Beyond the Federal Circuit, a few courts have been established to deal with appeals on specific subjects such as veterans claims (United States Court of Appeals for Veterans Claims) and military matters (United States Court of Appeals for the Armed Forces).

Supreme Court of the United States

The Supreme Court of the United States is the highest court in the American judicial system, and has the power to decide appeals on all cases brought in federal court or those brought in state court but dealing with federal law. For example, if a First Amendment freedom of speech case was decided by the highest court of a state (usually the state supreme court), the case could be appealed to the federal Supreme Court. However, if that same case were decided entirely on a state law similar to the First Amendment, the Supreme Court of the United States would not be able to consider the case.

After the circuit court or state supreme court has ruled on a case, either party may choose to appeal to the Supreme Court. Unlike circuit court appeals, however, the Supreme Court is usually not required to hear the appeal. Parties may file a "writ of certiorari" to the court, asking it to hear the case. If the writ is granted, the Supreme Court will take briefs and conduct oral argument. If the writ is not granted, the lower court's opinion stands. Certiorari is not often granted; less than 1% of appeals to the high court are actually heard by it. The Court typically hears cases when there are conflicting decisions across the country on a particular issue or when there is an egregious error in a case.

The members of the Court are referred to as "justices" and, like other federal judges, they are appointed by the President and confirmed by the Senate for a life term. There

are nine justices on the court – eight associate justices and one chief justice. The Constitution sets no requirements for Supreme Court justices, though all current members of the court are lawyers and most have served as circuit court judges. Justices are also often former law professors. The chief justice acts as the administrator of the court and is chosen by the President and approved by the Congress when the position is vacant.

The Supreme Court meets in Washington, D.C. The court conducts its annual term from the first Monday of October until each summer, usually ending in late June.

The following is a list of federal courts:

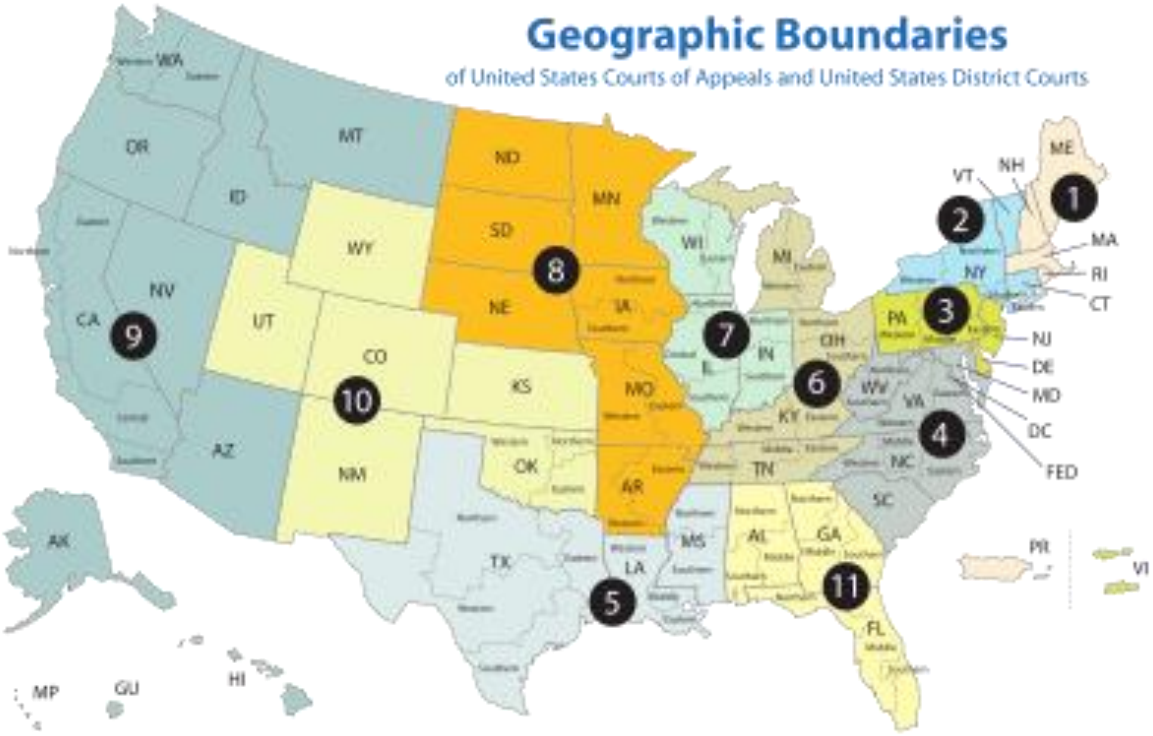
United States federal courts

Trial Courts: United States District
There are 94 district courts

Appellate Courts
There are 12 United States Courts of Appeals based upon geographic jurisdiction

Appellate Courts: United States courts of appeals

United States Court of Appeals for the First Circuit
United States Court of Appeals for the Second Circuit
United States Court of Appeals for the Third Circuit
United States Court of Appeals for the Fourth Circuit
United States Court of Appeals for the Fifth Circuit
United States Court of Appeals for the Sixth Circuit
United States Court of Appeals for the Seventh Circuit
United States Court of Appeals for the Eighth Circuit
United States Court of Appeals for the Ninth Circuit
United States Court of Appeals for the Tenth Circuit
United States Court of Appeals for the Eleventh Circuit
United States Court of Appeals for the District of Columbia Circuit



Court of Last Resort:

Supreme Court of the United States

Specific Subject-Matter Jurisdiction

U.S. Court of Federal Claims
United States Tax Court
Patent Trial and Appeal Board
International Trade Commission
United States Court of International Trade
United States Court of Federal Claims
United States Foreign Intelligence Surveillance Court
United States bankruptcy courts
Trademark Trial and Appeal Board
United States Merit Systems Protection Board
United States Alien Terrorist Removal Court

United States Tax Court

The United States Tax Court is a federal trial court of record established by Congress under Article I of the U.S. Constitution, section 8 of which provides (in part) that the Congress has the power to "constitute Tribunals inferior to the supreme Court". The Tax Court specializes in adjudicating disputes over federal income tax, generally prior to the time at which formal tax assessments are made by the Internal Revenue Service. Though taxpayers may choose to litigate tax matters in a variety of legal settings,

outside of bankruptcy, the Tax Court is the only forum in which taxpayers may do so without having first paid the disputed tax in full.

Parties who contest the imposition of a tax may also bring an action in any United States District Court, or in the United States Court of Federal Claims; however these venues require that the tax be paid first, and that the party then file a lawsuit to recover the contested amount paid (the "full payment rule" of Flora v. United States). Tax Court judges are appointed for a term of 15 years, subject to presidential removal for "inefficiency, neglect of duty, or malfeasance in office...." The U.S. Tax Court "is not an agency of, and is independent of, the executive branch of the Government.

State Courts

There are 50 states in the United States and several U. S. territories and each has its own legal system. Most legal issues are resolved in state trial courts, the courts at the lowest tier in a state's court system. O.J. Simpson's criminal and civil trials were both conducted in a California trial court. Depending on the specific structure of your state's court system, trial courts may be city or municipal courts, justice of the peace or *jp courts,* county or circuit courts, or even regional trial courts.

Most states have two levels of trial courts: trial courts with *limited jurisdiction* and trial courts with *specific jurisdiction.* Jurisdiction simply refers to the types of cases a court can hear. For example, trial courts of limited jurisdiction —which can include municipal courts, magistrate courts, county courts and justice of the peace courts — hear some kinds of civil cases, juvenile cases, minor criminal cases and traffic violations. Most legal problems are resolved in this kind of trial court. Some trial courts with limited jurisdiction also hold pretrial hearings for more serious criminal cases.

Each state has its own system for naming its courts of general jurisdiction. Courts of general jurisdiction include circuit courts, superior courts, district courts, or courts of common pleas, depending on your state. They hear lawsuits that involve greater amounts of money or more serious types of crimes than the cases heard in trial courts of limited jurisdiction.

Many states also have specialized trial courts that hear cases related to a very specific area of the law. These courts can include probate courts, family law courts, juvenile courts, and small claims courts.

Next tier up in the typical state court system are the appellate courts. These courts don't hold trials but instead review the decisions and procedures of the trial courts in their systems and either uphold or reverse their decisions or modify the amount of a monetary reward. Sometimes appellate courts order retrials.

Lower court decisions are not automatically appealed. The litigant must initiate an appeal and provide a legal basis for appealing. Thinking that you "got a raw deal" is not enough.

Every state has a court of last resort, generally called the "supreme court." Although supreme court decisions are final within a state court system, sometimes they can be appealed to the U.S. Supreme Court. Like appellate courts, supreme courts review the decisions and the procedures of lower courts; they don't hold trials.

Precedent and Stare Decisis

When issuing decisions, all courts must follow binding precedent -- that is their decisions must follow any rulings made by courts above them. On questions of the interpretation of the United States Constitution and statutes passed by Congress, the United States Supreme Court has the final say. All other courts, both federal and state, must follow any precedent set by the Supreme Court.

All United States District Courts must follow the interpretation given by the Court of Appeal for the circuit in which it sits. Sometimes, different circuits reach contradictory results on a particular issue. This means that the Constitution may occasionally be interpreted differently in different states. Often, such a “split in the circuits” prompts the Supreme Court to grant certiorari on the issue involved, so that the law will be uniform throughout the country.

State courts are bound to follow precedent set by the Supreme Court and by the Courts of Appeals on issues of federal law, but not as to state law. Each state supreme court is free to interpret the laws of its state as it sees fit, as long as the interpretation does not violate the United States Constitution. All lower courts in the state must follow state supreme court precedent on issues of state law, and federal courts in the state must do likewise.

The doctrine of stare decisis is somewhat different than that of precedent. Stare decisis is the desire of most courts to follow their own precedent, even when they are not required to. For example, once the Supreme Court has decided an issue of federal law, they are free to change their mind in some later case. But they are normally quite reluctant to do so, even if there has been a change of justices on the Court and the new members do not agree with the old ruling. They are much more likely to distinguish the older case when asked to apply it in a slightly different situation. In this way, the older doctrine may change, but more gradually, over time.

The Supreme Court has the power to and does occasionally completely reverse an existing precedent. Although they can do so both as to statutory and constitutional issues, they often state that they are less likely to do so in matters of statutory construction. This is because if Congress disagrees with the Court’s interpretation of a statute, it may amend the law to change the result. If the Supreme Court feels strongly, however, that they have misinterpreted the Constitution, only they can change the result, unless the difficult cumbersome process of amending the Constitution is used. Such complete reversals, however, are quite rare.

Common Law

Common law (also known as judicial precedent or judge-made law, or case law) is that body of law derived from judicial decisions of courts and similar tribunals. The defining characteristic of “common law” is that it arises as precedent. In cases where the parties disagree on what the law is, a common law court looks to past precedential decisions of relevant courts, and synthesizes the principles of those past cases as applicable to the current facts. If a similar dispute has been resolved in the past, the court is usually bound to follow the reasoning used in the prior decision (a principle known as stare decisis). If, however, the court finds that the current dispute is fundamentally distinct from all previous cases (called a "matter of first impression"), and legislative statutes are either silent or ambiguous on the question, judges have the authority and duty to resolve the issue (one party or the other has to win, and on disagreements of law, judges make that decision). The court states an opinion that gives reasons for the decision, and those reasons agglomerate with past decisions as precedent to bind future judges and litigants. Common law, as the body of law made by judges, stands in contrast to and on equal footing with statutes which are adopted through the legislative process, and regulations which are promulgated by the executive branch (the interactions are explained later in this article). Stare decisis, the principle that cases should be decided according to consistent principled rules so that similar facts will yield similar results, lies at the heart of all common law systems.

Legal Systems of the World.
Common law countries are shaded pink & Civil Law in turquoise

The common law—so named because it was "common" to all the king's courts across England—originated in the practices of the courts of the English kings in the centuries

following the Norman Conquest in 1066. The British Empire spread its legal system to its historical colonies, many of which retain the common law system today. These "common law systems" are legal systems that give great precedential weight to common law, and to the style of reasoning inherited from the English legal system.

Today, one-third of the world's population lives in common law jurisdictions or in systems mixed with civil law, including Antigua and Barbuda, Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Burma, Cameroon, Canada (both the federal system and all its provinces except Quebec), Cyprus, Dominica, Fiji, Ghana, Grenada, Guyana, Hong Kong, India, Ireland, Israel, Jamaica, Kenya, Liberia, Malaysia, Marshall Islands, Micronesia, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Palau, Papua New Guinea, Sierra Leone, Singapore, South Africa, Sri Lanka, Trinidad and Tobago, the United Kingdom (including its overseas territories such as Gibraltar), the United States (both the federal system and 49 of its 50 states), and Zimbabwe. Some of these countries have variants on common law systems.

Definitions
The term common law has many connotations. The first three set out here are the most-common usages within the legal community. Other connotations from past centuries are sometimes seen, and are sometimes heard in everyday speech.

Common Law as Opposed to Statutory Law and Regulatory Law
The first definition of "common law" given in Black's Law Dictionary, 10th edition, 2014, is "The body of law derived from judicial decisions, rather than from statutes or constitutions; CASELAW, STATUTORY LAW." This usage is given as the first definition in modern legal dictionaries, is characterized as the “most common” usage among legal professionals, and is the usage frequently seen in decisions of courts. In this connotation, "common law" distinguishes the authority that promulgated a law. For example, the law in most Anglo-American jurisdictions includes "statutory law" enacted by a legislature, "regulatory law" (in the U.S.) or “delegated legislation” (in the U.K.) promulgated by executive branch agencies pursuant to delegation of rule-making authority from the legislature, and common law or "case law", i.e., decisions issued by courts (or quasi-judicial tribunals within agencies). This first connotation can be further differentiated into

(a) pure common law
arising from the traditional and inherent authority of courts to define what the law is, even in the absence of an underlying statute or regulation. Examples include most criminal law and procedural law before the 20th century, and even today, most contract law and the law of torts.

(b) interstitial common law
court decisions that analyze, interpret and determine the fine boundaries and distinctions in law promulgated by other bodies. This body of common law, sometimes called "interstitial common law", includes judicial interpretation of the

Constitution, of legislative statutes, and of agency regulations, and the application of law to specific facts.

Publication of decisions, and indexing, is essential to the development of common law, and thus governments and private publishers publish law reports. While all decisions in common law jurisdictions are precedent (at varying levels and scope as discussed throughout the article on precedent), some become "leading cases" or "landmark decisions" that are cited especially often.

Common Law Legal Systems as Opposed to Civil Law Legal Systems
Black's Law Dictionary 10th Ed., definition 2, differentiates "common law" jurisdictions and legal systems from "civil law" or "code" jurisdictions.

By contrast, in civil law jurisdictions (the legal tradition that prevails, or is combined with common law, in Europe and most non-Islamic, non-common law countries), courts lack authority to act if there is no statute. Civil law judges tend to give less weight to judicial precedent, which means that a civil law judge deciding a given case has more freedom to interpret the text of a statute independently (compared to a common law judge in the same circumstances), and therefore less predictably. For example, the Napoleonic code expressly forbade French judges to pronounce general principles of law. The role of providing overarching principles, which in common law jurisdictions is provided in judicial opinions, in civil law jurisdictions is filled by giving greater weight to scholarly literature, as explained below.

Common law systems trace their history to England, while civil law systems trace their history through the Napoleonic Code back to the Corpus Juris Civilis of Roman law.

Law as Opposed to Equity
Black's Law Dictionary 10th Ed., definition 4, differentiates "common law" (or just "law") from "equity". Before 1873, England had two complementary court systems: courts of "law" which could only award money damages and recognized only the legal owner of property, and courts of "equity" (courts of chancery) that could issue injunctive relief (that is, a court order to a party to do something, give something to someone, or stop doing something) and recognized trusts of property. This split propagated too many of the colonies, including the United States. For most purposes, most jurisdictions, including the U.S. federal system and most states, have merged the two courts. Additionally, even before the separate courts were merged, most courts were permitted to apply both law and equity, though under potentially different procedural law. Nonetheless, the historical distinction between "law" and "equity" remains important today when the case involves issues such as the following:

categorizing and prioritizing rights to property—for example, the same article of property often has a "legal title" and an "equitable title", and these two groups of ownership rights may be held by different people.

in the United States, determining whether the Seventh Amendment's right to a jury trial applies (a determination of a fact necessary to resolution of a "common law" claim) vs. whether the issue will be decided by a judge (issues of what the law is, and all issues relating to equity).

the standard of review and degree of deference given by an appellate tribunal to the decision of the lower tribunal under review (issues of law are reviewed de novo, that is, "as if new" from scratch by the appellate tribunal, while most issues of equity are reviewed for "abuse of discretion", that is, with great deference to the tribunal below).
the remedies available and rules of procedure to be applied.
Courts of equity rely on common law principles of binding precedent.

Archaic Meanings and Historical Uses
In addition, there are several historical (but now archaic) uses of the term that, while no longer current, provide background context that assists in understanding the meaning of "common law" today.

In one usage that is now archaic, but that gives insight into the history of the common law, "common law" referred to the pre-Christian system of law, imported by the Saxons to England, and dating to before the Norman conquest, and before there was any consistent law to be applied. That usage is obsolete today. It is both under inclusive and over inclusive, as discussed in the section on "misconceptions".

"Common law" as the term is used today in common law countries contrasts with ius commune. While historically the ius commune became a secure point of reference in continental European legal systems, in England it was not a point of reference at all.

The English Court of Common Pleas dealt with lawsuits in which the Monarch had no interest, i.e., between commoners.

Black's Law Dictionary 10th Ed., definition 3 is "General law common to a country as a whole, as opposed to special law that has only local application." From at least the 11th century and continuing for several centuries after that, there were several different circuits in the royal court system, served by itinerant judges who would travel from town to town dispensing the King's justice in "assizes". The term "common law" was used to describe the law held in common between the circuits and the different stops in each circuit. The more widely a particular law was recognized, the more weight it held, whereas purely local customs were generally subordinate to law recognized in a plurality of jurisdictions.

Misconceptions and Imprecise Nonlawyer Usages
A number of misconceptions of the term "common law" exist in popular culture and non-lawyer sources.

Under the modern view, “common law” is not grounded in “custom” or "ancient usage", but rather acquires force of law instantly (without the delay implied by the term "custom" or "ancient") when pronounced by a higher court, because and to the extent the proposition is stated in judicial opinion. From the earliest times through the late 19th century, the dominant theory was that the common law was a pre-existent law or system of rules, a social standard of justice that existed in the habits, customs, and thoughts of the people. Under this older view, the legal profession considered it no part of a judge's duty to make new or change existing law, but only to expound and apply the old. By the early 20th century, largely at the urging of Oliver Wendell Holmes (as discussed throughout this article), this view had fallen into the minority view: Holmes pointed out that the older view worked undesirable and unjust results, and hampered a proper development of the law. In the century since Holmes, the dominant understanding has been that common law “decisions are themselves law, or rather the rules which the courts lay down in making the decisions constitute law”. The reality of the modern view can be seen in practical operation: under the old "pre-existing custom" view, (a) jurisdictions could not logically diverge from each other (but nonetheless did), (b) a new decision logically needed to operate retroactively (but did not), and (c) there was no standard to decide which English medieval customs should be "law" and which should not. All three tensions resolve under the modern view:

> (a) the common law in different jurisdictions may diverge,
>
> (b) new decisions need not have retroactive operation, and (c) court decisions are effective immediately as they are issued, not years later, or after they become "custom", and questions of what "custom" might have been at some "ancient" time are simply irrelevant.

Common law, as the term is used among lawyers in the present day, is not frozen in time, and no longer beholden to 11th, 13th, or 17th century English law. Rather, the common law evolves daily and immediately as courts issue precedential decisions (as explained later in this article), and all parties in the legal system (courts, lawyers, and all others) are responsible for up-to-date knowledge. There is no fixed reference point (for example the 11th or 18th centuries) for the definition of "common law", except in a handful of isolated contexts Much of what was "customary" in the 13th or 17th or 18th century has no part of the common law today; much of the common law today has no antecedent in those earlier centuries. Among legal professionals (lawyers and judges), the change in understanding occurred in the late 19th and early 20th centuries (as explained later in this article), though lay dictionaries were decades behind in recognizing the change.

The common law is not "unwritten". Common law exists in writing—as must any law that is to be applied consistently—in the written decisions of judges.

Common law is not the product of "universal consent". Rather, the common law is often anti-majoritarian.

Basic Principles of Common Law

Common law adjudication

In a common law jurisdiction several stages of research and analysis are required to determine "what the law is" in a given situation. First, one must ascertain the facts. Then, one must locate any relevant statutes and cases. Then one must extract the principles, analogies and statements by various courts of what they consider important to determine how the next court is likely to rule on the facts of the present case. Later decisions, and decisions of higher courts or legislatures carry more weight than earlier cases and those of lower courts. Finally, one integrates all the lines drawn and reasons given, and determines "what the law is". Then, one applies that law to the facts.

In practice, common law systems are considerably more complicated than the simplified system described above. The decisions of a court are binding only in a particular jurisdiction, and even within a given jurisdiction, some courts have more power than others. For example, in most jurisdictions, decisions by appellate courts are binding on lower courts in the same jurisdiction, and on future decisions of the same appellate court, but decisions of lower courts are only non-binding persuasive authority. Interactions between common law, constitutional law, statutory law and regulatory law also give rise to considerable complexity.

The common law evolves to meet changing social needs and improved understanding

Nomination of Oliver Wendell Holmes to serve on the U.S. Supreme Court, 1902.
Oliver Wendell Holmes, Jr. cautioned that "the proper derivation of general principles in both common and constitutional law ... arise gradually, in the emergence of a consensus from a multitude of particularized prior decisions." Justice Cardozo noted the "common law does not work from pre-established truths of universal and inflexible validity to conclusions derived from them deductively", but "[i]ts method is inductive, and it draws its generalizations from particulars".

The common law is more malleable than statutory law. First, common law courts are not absolutely bound by precedent, but can (when extraordinarily good reason is shown) reinterpret and revise the law, without legislative intervention, to adapt to new trends in political, legal and social philosophy. Second, the common law evolves through a series of gradual steps, that gradually works out all the details, so that over a decade or more, the law can change substantially but without a sharp break, thereby reducing disruptive effects. In contrast to common law incrementalism, the legislative process is very difficult to get started, as legislatures tend to delay action until a situation is totally intolerable. For these reasons, legislative changes tend to be large, jarring and disruptive (sometimes positively, sometimes negatively, and sometimes with unintended consequences).

One example of the gradual change that typifies evolution of the common law is the gradual change in liability for negligence. The traditional common law rule through most

of the 19th century was that a plaintiff could not recover for a defendant's negligent production or distribution of a harmful instrumentality unless the two were in privity of contract. Thus, only the immediate purchaser could recover for a product defect, and if a part was built up out of parts from parts manufacturers, the ultimate buyer could not recover for injury caused by a defect in the part. In an 1842 English case, Winterbottom v. Wright, the postal service had contracted with Wright to maintain its coaches. Winterbottom was a driver for the post. When the coach failed and injured Winterbottom, he sued Wright. The Winterbottom court recognized that there would be "absurd and outrageous consequences" if an injured person could sue any person peripherally involved, and knew it had to draw a line somewhere, a limit on the causal connection between the negligent conduct and the injury. The court looked to the contractual relationships, and held that liability would only flow as far as the person in immediate contract ("privity") with the negligent party.

A first exception to this rule arose in 1852, in the case of Thomas v. Winchester, when New York's highest court held that mislabeling a poison as an innocuous herb, and then selling the mislabeled poison through a dealer who would be expected to resell it, put "human life in imminent danger". Thomas relied on this reason to create an exception to the "privity" rule. In, 1909, New York held in Statler v. Ray Mfg. Co. that a coffee urn manufacturer was liable to a person injured when the urn exploded, because the urn "was of such a character inherently that, when applied to the purposes for which it was designed, it was liable to become a source of great danger to many people if not carefully and properly constructed".

Yet the privity rule survived. In Cadillac Motor Car Co. v. Johnson, (decided in 1915 by the federal appeals court for New York and several neighboring states), the court held that a car owner could not recover for injuries from a defective wheel, when the automobile owner had a contract only with the automobile dealer and not with the manufacturer, even though there was "no question that the wheel was made of dead and ‘dozy‘ wood, quite insufficient for its purposes." The Cadillac court was willing to acknowledge that the case law supported exceptions for "an article dangerous in its nature or likely to become so in the course of the ordinary usage to be contemplated by the vendor". However, held the Cadillac court, "one who manufactures articles dangerous only if defectively made, or installed, e.g., tables, chairs, pictures or mirrors hung on the walls, carriages, automobiles, and so on, is not liable to third parties for injuries caused by them, except in case of willful injury or fraud,"

Nomination of Benjamin Cardozo to serve on the U.S. Supreme Court, 1932.
Finally, in the famous case of MacPherson v. Buick Motor Co., in 1916, Judge Benjamin Cardozo for New York's highest court pulled a broader principle out of these predecessor cases. The facts were almost identical to Cadillac a year earlier: a wheel from a wheel manufacturer was sold to Buick, to a dealer, to MacPherson, and the wheel failed, injuring MacPherson. Judge Cardozo held:

> “It may be that Statler v. Ray Mfg. Co. have extended the rule of Thomas v. Winchester. If so, this court is committed to the extension. The defendant argues that things imminently dangerous to life are poisons, explosives, deadly weapons—things whose normal function it is to injure or destroy. But whatever the rule in Thomas v. Winchester may once have been, it has no longer that restricted meaning. A scaffold (Devlin v. Smith, supra) is not inherently a destructive instrument. It becomes destructive only if imperfectly constructed. A large coffee urn (Statler v. Ray Mfg. Co., supra) may have within itself, if negligently made, the potency of danger, yet no one thinks of it as an implement whose normal function is destruction. What is true of the coffee urn is equally true of bottles of aerated water (Torgeson v. Schultz, 192 N. Y. 156). We have mentioned only cases in this court. But the rule has received a like extension in our courts of intermediate appeal. In Burke v. Ireland (26 App. Div. 487), in an opinion by CULLEN, J., it was applied to a builder who constructed a defective building; in Kahner v. Otis Elevator Co. (96 App. Div. 169) to the manufacturer of an elevator; in Davies v. Pelham Hod Elevating Co. (65 Hun, 573; affirmed in this court without opinion, 146 N. Y. 363) to a contractor who furnished a defective rope with knowledge of the purpose for which the rope was to be used. We are not required at this time either to approve or to disapprove the application of the rule that was made in these cases. It is enough that they help to characterize the trend of judicial thought.
>
> We hold, then, that the principle of Thomas v. Winchester is not limited to poisons, explosives, and things of like nature, to things which in their normal operation are implements of destruction. If the nature of a thing is such that it is reasonably certain to place life and limb in peril when negligently made, it is then a thing of danger. Its nature gives warning of the consequences to be expected. If to the element of danger there is added knowledge that the thing will be used by persons other than the purchaser, and used without new tests then, irrespective of contract, the manufacturer of this thing of danger is under a duty to make it carefully. ... There must be knowledge of a danger, not merely possible, but probable.”

Cardozo's new "rule" exists in no prior case, but is inferrable as a synthesis of the "thing of danger" principle stated in them, merely extending it to "foreseeable danger" even if "the purposes for which it was designed" were not themselves "a source of great danger". MacPherson takes some care to present itself as foreseeable progression, not a wild departure. Cardozo continues to adhere to the original principle of Winterbottom, that "absurd and outrageous consequences" must be avoided, and he does so by drawing a new line in the last sentence quoted above: "There must be knowledge of a danger, not merely possible, but probable." But while adhering to the underlying principle that some boundary is necessary, MacPherson overruled the prior common law by rendering the formerly dominant factor in the boundary, that is, the privity formality arising out of a contractual relationship between persons, totally irrelevant. Rather, the most important factor in the boundary would be the nature of the thing sold and the foreseeable uses that downstream purchasers would make of the thing.

The example of the evolution of the law of negligence in the preceding paragraphs illustrates two crucial principles:

(a) The common law evolves, this evolution is in the hands of judges, and judges have "made law" for hundreds of years.
(b) The reasons given for a decision are often more important in the long run than the outcome in a particular case. This is the reason that judicial opinions are usually quite long, and give rationales and policies that can be balanced with judgment in future cases, rather than the bright-line rules usually embodied in statutes.

Publication of Decisions
All law systems rely on written publication of the law, so that it is accessible to all. Common law decisions are published in law reports for use by lawyers, courts and the general public.

After the American Revolution, Massachusetts became the first state to establish an official Reporter of Decisions. As newer states needed law, they often looked first to the Massachusetts Reports for authoritative precedents as a basis for their own common law. The United States federal courts relied on private publishers until after the Civil War, and only began publishing as a government function in 1874. West Publishing in Minnesota is the largest private-sector publisher of law reports in the United States. Government publishers typically issue only decisions "in the raw," while private sector publishers often add indexing, editorial analysis, and similar finding aids.

Interaction of Constitutional, Statutory and Common Law
In common law legal systems, the common law is crucial to understanding almost all important areas of law. For example, in England and Wales, in English Canada, and in most states of the United States, the basic law of contracts, torts and property do not exist in statute, but only in common law (though there may be isolated modifications enacted by statute). As another example, the Supreme Court of the United States in 1877, held that a Michigan statute that established rules for solemnization of marriages did not abolish pre-existing common-law marriage, because the statute did not affirmatively require statutory solemnization and was silent as to preexisting common law.

In almost all areas of the law (even those where there is a statutory framework, such as contracts for the sale of goods, or the criminal law), legislature-enacted statutes generally give only terse statements of general principle, and the fine boundaries and definitions exist only in the interstitial common law. To find out what the precise law is that applies to a particular set of facts, one has to locate precedential decisions on the topic, and reason from those decisions by analogy.

In (common law jurisdictions (in the sense opposed to "civil law"), legislatures operate under the assumption that statutes will be interpreted against the backdrop of the pre-

existing common law. As the United States Supreme Court explained in United States v Texas, 507 U.S. 529 (1993):

Just as longstanding is the principle that "[s]tatutes which invade the common law ... are to be read with a presumption favoring the retention of long-established and familiar principles, except when a statutory purpose to the contrary is evident." Isbrandtsen Co. v. Johnson, 343 U.S. 779, 783 (1952); Astoria Federal Savings & Loan Assn. v. Solimino, 501 U.S. 104, 108 (1991). In such cases, Congress does not write upon a clean slate. Astoria, 501 U.S. at 108. In order to abrogate a common-law principle, the statute must "speak directly" to the question addressed by the common law. Mobil Oil Corp. v. Higginbotham, 436 U. S. 618, 625 (1978); Milwaukee v. Illinois, 451 U. S. 304, 315 (1981).

For example, in most U.S. states, the criminal statutes are primarily codification of pre-existing common law. (Codification is the process of enacting a statute that collects and restates pre-existing law in a single document—when that pre-existing law is common law, the common law remains relevant to the interpretation of these statutes.) In reliance on this assumption, modern statutes often leave a number of terms and fine distinctions unstated—for example, a statute might be very brief, leaving the precise definition of terms unstated, under the assumption that these fine distinctions will be inherited from pre-existing common law. (For this reason, many modern American law schools teach the common law of crime as it stood in England in 1789, because that centuries-old English common law is a necessary foundation to interpreting modern criminal statutes.)

With the transition from English law, which had common law crimes, to the new legal system under the U.S. Constitution, which prohibited ex post facto laws at both the federal and state level, the question was raised whether there could be common law crimes in the United States. It was settled in the case of United States v. Hudson which decided that federal courts had no jurisdiction to define new common law crimes, and that there must always be a (constitutional) statute defining the offense and the penalty for it.

Still, many states retain selected common law crimes. For example, in Virginia, the definition of the conduct that constitutes the crime of robbery exists only in the common law, and the robbery statute only sets the punishment. Virginia Code section 1-200 establishes the continued existence and vitality of common law principles and provides that "The common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this Commonwealth, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly."

By contrast to statutory codification of common law, some statutes displace common law, for example to create a new cause of action that did not exist in the common law, or to legislatively overrule the common law. An example is the tort of wrongful death, which allows certain persons, usually a spouse, child or estate, to sue for damages on behalf of the deceased. There is no such tort in English common law; thus, any jurisdiction that lacks a wrongful death statute will not allow a lawsuit for the wrongful

death of a loved one. Where a wrongful death statute exists, the compensation or other remedy available is limited to the remedy specified in the statute (typically, an upper limit on the amount of damages). Courts generally interpret statutes that create new causes of action narrowly—that is, limited to their precise terms—because the courts generally recognize the legislature as being supreme in deciding the reach of judge-made law unless such statute should violate some "second order" constitutional law provision (cf. judicial activism).

Where a tort is rooted in common law, all traditionally recognized damages for that tort may be sued for, whether or not there is mention of those damages in the current statutory law. For instance, a person who sustains bodily injury through the negligence of another may sue for medical costs, pain, suffering, loss of earnings or earning capacity, mental and/or emotional distress, loss of quality of life, disfigurement and more. These damages need not be set forth in statute as they already exist in the tradition of common law. However, without a wrongful death statute, most of them are extinguished upon death.

In the United States, the power of the federal judiciary to review and invalidate unconstitutional acts of the federal executive branch is stated in the constitution, Article III sections 1 and 2: "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. ... 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..." The first landmark decision on "the judicial power" was Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803). Later cases interpreted the "judicial power" of Article III to establish the power of federal courts to consider or overturn any action of Congress or of any state that conflicts with the Constitution.

The interactions between decisions of different courts is discussed further in the article on precedent.

Overruling Precedent—The Limits of Stare Decisis

The United States federal courts are divided into twelve regional circuits, each with a circuit court of appeals (plus a thirteenth, the Court of Appeals for the Federal Circuit, which hears appeals in patent cases and cases against the federal government, without geographic limitation). Decisions of one circuit court are binding on the district courts within the circuit and on the circuit court itself, but are only persuasive authority on sister circuits. District court decisions are not binding precedent at all, only persuasive.

Most of the U.S. federal courts of appeal have adopted a rule under which, in the event of any conflict in decisions of panels (most of the courts of appeal almost always sit in panels of three), the earlier panel decision is controlling, and a panel decision may only be overruled by the court of appeals sitting en banc (that is, all active judges of the court) or by a higher court. In these courts, the older decision remains controlling when an issue comes up the third time.

Other courts, for example, the Court of Customs and Patent Appeals and the Supreme Court, always sit en banc, and thus the later decision controls. These courts essentially overrule all previous cases in each new case, and older cases survive only to the extent they do not conflict with newer cases. The interpretations of these courts—for example, Supreme Court interpretations of the constitution or federal statutes—are stable only so long as the older interpretation maintains the support of a majority of the court. Older decisions persist through some combination of belief that the old decision is right, and that it is not sufficiently wrong to be overruled.

In the UK, since 2009, the Supreme Court of the United Kingdom has the authority to overrule and unify decisions of lower courts. From 1966 to 2009, this power lay with the House of Lords, granted by the Practice Statement of 1966.

Canada's federal system, described below, avoids regional variability of federal law by giving national jurisdiction to both layers of appellate courts.

Common Law as a Foundation for Commercial Economies

The reliance on judicial opinion is a strength of common law systems, and is a significant contributor to the robust commercial systems in the United Kingdom and United States. Because there is reasonably precise guidance on almost every issue, parties (especially commercial parties) can predict whether a proposed course of action is likely to be lawful or unlawful, and have some assurance of consistency. As Justice Brandeis famously expressed it, "in most matters it is more important that the applicable rule of law be settled than that it be settled right. This ability to predict gives more freedom to come close to the boundaries of the law. For example, many commercial contracts are more economically efficient, and create greater wealth, because the parties know ahead of time that the proposed arrangement, though perhaps close to the line, is almost certainly legal. Newspapers, taxpayer-funded entities with some religious affiliation, and political parties can obtain fairly clear guidance on the boundaries within which their freedom of expression rights apply.

In contrast, in jurisdictions with very weak respect for precedent, fine questions of law are redetermined anew each time they arise, making consistency and prediction more difficult, and procedures far more protracted than necessary because parties cannot rely on written statements of law as reliable guides. In jurisdictions that do not have a strong allegiance to a large body of precedent, parties have less a priori guidance (unless the written law is very clear and kept updated) and must often leave a bigger "safety margin" of unexploited opportunities, and final determinations are reached only after far larger expenditures on legal fees by the parties.

This is the reason for the frequent choice of the law of the State of New York in commercial contracts, even when neither entity has extensive contacts with New York—and remarkably often even when neither party has contacts with the United States. Commercial contracts almost always include a "choice of law clause" to reduce uncertainty. Somewhat surprisingly, contracts throughout the world (for example, contracts involving parties in Japan, France and Germany, and from most of the other

states of the United States) often choose the law of New York, even where the relationship of the parties and transaction to New York is quite attenuated. Because of its history as the United States' commercial center, New York common law has a depth and predictability not (yet) available in any other jurisdictions of the United States. Similarly, American corporations are often formed under Delaware corporate law, and American contracts relating to corporate law issues (merger and acquisitions of companies, rights of shareholders, and so on.) include a Delaware choice of law clause, because of the deep body of law in Delaware on these issues. On the other hand, some other jurisdictions have sufficiently developed bodies of law so that parties have no real motivation to choose the law of a foreign jurisdiction (for example, England and Wales, and the state of California), but not yet so fully developed that parties with no relationship to the jurisdiction choose that law. Outside the United States, parties that are in different jurisdictions from each other often choose the law of England and Wales, particularly when the parties are each in former British colonies and members of the Commonwealth. The common theme in all cases is that commercial parties seek predictability and simplicity in their contractual relations, and frequently choose the law of a common law jurisdiction with a well-developed body of common law to achieve that result.

Likewise, for litigation of commercial disputes arising out of unpredictable torts (as opposed to the prospective choice of law clauses in contracts discussed in the previous paragraph), certain jurisdictions attract an unusually high fraction of cases, because of the predictability afforded by the depth of decided cases. For example, London is considered the pre-eminent centre for litigation of admiralty cases.

This is not to say that common law is better in every situation. For example, civil law can be clearer than case law when the legislature has had the foresight and diligence to address the precise set of facts applicable to a particular situation. For that reason, civil law statutes tend to be somewhat more detailed than statutes written by common law legislatures—but, conversely, that tends to make the statute more difficult to read (the United States tax code is an example).

Coke and Blackstone

The first attempt at a comprehensive compilation of centuries of common law was by Lord Chief Justice Edward Coke, in his treatise, Institutes of the Lawes of England in the 17th century.

The next definitive historical treatise on the common law is Commentaries on the Laws of England, written by Sir William Blackstone and first published in 1765–1769.

Propagation of the Common Law to the Colonies and Commonwealth By Reception Statutes

A reception statute is a statutory law adopted as a former British colony becomes independent, by which the new nation adopts (i.e. receives) pre-independence common law, to the extent not explicitly rejected by the legislative body or constitution of the new

nation. Reception statutes generally consider the English common law dating prior to independence, and the precedent originating from it, as the default law, because of the importance of using an extensive and predictable body of law to govern the conduct of citizens and businesses in a new state. All U.S. states, with the partial exception of Louisiana, have either implemented reception statutes or adopted the common law by judicial opinion.

Other examples of reception statutes in the United States, the states of the U.S., Canada and its provinces, and Hong Kong, are discussed in the reception statute article.

Yet, adoption of the common law in the newly-independent nation was not a foregone conclusion, and was controversial. Immediately after the American Revolution, there was widespread distrust and hostility to anything British, and the common law was no exception. Jeffersonians decried lawyers and their common law tradition as threats to the new republic. The Jeffersonians preferred a legislatively-enacted civil law under the control of the political process, rather than the common law developed by judges that—by design—were insulated from the political process. The Federalists believed that the common law was the birthright of Independence: after all, the natural rights to "life, liberty, and the pursuit of happiness" were the rights protected by common law. Even advocates for the common law approach noted that it was not an ideal fit for the newly-independent colonies: judges and lawyers alike were severely hindered by a lack of printed legal materials. Before Independence, the most comprehensive law libraries had been maintained by Tory lawyers, and those libraries vanished with the loyalist expatriation, and the ability to print books was limited. Lawyer (later president) John Adams complained that he "suffered very much for the want of books". To bootstrap this most basic need of a common law system—knowable, written law—in 1803, lawyers in Massachusetts donated their books to found a law library. A Jeffersonian newspaper criticized the library, as it would carry forward "all the old authorities practiced in England for centuries back ... whereby a new system of jurisprudence will be founded]on the high monarchical system to become the Common Law of this Commonwealth... The library may hereafter have a very unsocial purpose."

Decline of Latin Maxims and "Blind Imitation of The Past", and Adding Flexibility to Stare Decisis

Well into the 19th century, ancient maxims played a large role in common law adjudication. Many of these maxims had originated in Roman Law, migrated to England before the introduction of Christianity to the British Isles, and were typically stated in Latin even in English decisions. Many examples are familiar in everyday speech even today, "One cannot be a judge in one's own cause" (see Dr. Bonham's Case), rights are reciprocal to obligations, and the like. Judicial decisions and treatises of the 17th and 18th centuries, such as those of Lord Chief Justice Edward Coke, presented the common law as a collection of such maxims.

Reliance on old maxims and rigid adherence to precedent, no matter how old or ill-considered, came under critical discussion in the late 19th century, starting in the United

States. Oliver Wendell Holmes, Jr. in his famous article, "The Path of the Law", commented, "It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past." Justice Holmes noted that study of maxims might be sufficient for "the man of the present", but "the man of the future is the man of statistics and the master of economics". In an 1880 lecture at Harvard, he wrote:

> The life of the law has not been logic; it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics.

In the early 20th century, Louis Brandeis, later appointed to the United States Supreme Court, became noted for his use of policy-driving facts and economics in his briefs, and extensive appendices presenting facts that lead a judge to the advocate's conclusion. By this time, briefs relied more on facts than on Latin maxims.

Reliance on old maxims is now deprecated. Common law decisions today reflect both precedent and policy judgment drawn from economics, the social sciences, business, decisions of foreign courts, and the like. The degree to which these external factors should influence adjudication is the subject of active debate, but it is indisputable that judges do draw on experience and learning from everyday life, from other fields, and from other jurisdictions.

1870 through 20th century, and the procedural merger of law and equity

As early as the 15th century, it became the practice that litigants who felt they had been cheated by the common law system would petition the King in person. For example, they might argue that an award of damages (at common law (as opposed to equity)) was not sufficient redress for a trespasser occupying their land, and instead request that the trespasser be evicted. From this developed the system of equity, administered by the Lord Chancellor, in the courts of chancery. By their nature, equity and law were frequently in conflict and litigation would frequently continue for years as one court countermanded the other, even though it was established by the 17th century that equity should prevail.

In England, courts of law (as opposed to equity) were combined with courts of equity by the Judicature Acts of 1873 and 1875, with equity prevailing in case of conflict.

In the United States, parallel systems of law (providing money damages, with cases heard by a jury upon either party's request) and equity (fashioning a remedy to fit the situation, including injunctive relief, heard by a judge) survived well into the 20th century. The United States federal courts procedurally separated law and equity: the

same judges could hear either kind of case, but a given case could only pursue causes in law or in equity, and the two kinds of cases proceeded under different procedural rules. This became problematic when a given case required both money damages and injunctive relief. In 1937, the new Federal Rules of Civil Procedure combined law and equity into one form of action, the "civil action". Fed.R.Civ.Proc. 2. The distinction survives to the extent that issues that were "common law (as opposed to equity)" as of 1791 (the date of adoption of the Seventh Amendment) are still subject to the right of either party to request a jury, and "equity" issues are decided by a judge.

Delaware, Mississippi, and Tennessee still have separate courts of law and equity, for example, the Court of Chancery. In many states there are separate divisions for law and equity within one court.

Common Law Pleading and its Abolition in The Early 20th Century
For centuries, through the 19th century, the common law recognized only specific forms of action, and required very careful drafting of the opening pleading (called a writ) to slot into exactly one of them: Debt, Detinue, Covenant, Special Assumpsit, General Assumpsit, Trespass, Trover, Replevin, Case (or Trespass on the Case), and Ejectment. To initiate a lawsuit, a pleading had to be drafted to meet myriad technical requirements: correctly categorizing the case into the correct legal pigeonhole (pleading in the alternative was not permitted), and using specific "magic words" encrusted over the centuries. Under the old common law pleading standards, a suit by a pro se ("for oneself," without a lawyer) party was all but impossible, and there was often considerable procedural jousting at the outset of a case over minor wording issues.

One of the major reforms of the late 19th century and early 20th century was the abolition of common law pleading requirements. A plaintiff can initiate a case by giving the defendant "a short and plain statement" of facts that constitute an alleged wrong. This reform moved the attention of courts from technical scrutiny of words to a more rational consideration of the facts, and opened access to justice far more broadly.

Alternatives to Common Law Systems
Civil law systems--comparisons and contrasts to common law

A 16th century edition of Corpus Juris Civilis Romani (1583)
The main alternative to the common law system is the civil law system, which is used in Continental Europe, and most of the rest of the world.

Judicial decisions play only a minor role in shaping civil law
The primary contrast between the two systems is the role of written decisions and precedent.

In common law jurisdictions, nearly every case that presents a bona fide disagreement on the law is resolved in a written opinion. The legal reasoning for the decision, known as ratio decidendi, not only determines the court's judgment between the parties, but also stands as precedent for resolving future disputes. In contrast, civil law decisions

typically do not include explanatory opinions, and thus no precedent flows from one decision to the next. In common law systems, a single decided case is binding common law (connotation 1) to the same extent as statute or regulation, under the principle of stare decisis. In contrast, in civil law systems, individual decisions have only advisory, not binding effect. In civil law systems, case law only acquires weight when a long series of cases use consistent reasoning, called jurisprudence constante. Civil law lawyers consult case law to obtain their best prediction of how a court will rule, but comparatively, civil law judges are less bound to follow it.

For that reason, statutes in civil law systems are more comprehensive, detailed, and continuously updated, covering all matters capable of being brought before a court.

Adversarial system vs. inquisitorial system
Common law systems tend to give more weight to separation of powers between the judicial branch and the executive branch. In contrast, civil law systems are typically more tolerant of allowing individual officials to exercise both powers. One example of this contrast is the difference between the two systems in allocation of responsibility between prosecutor and adjudicator.

Common law courts usually use an adversarial system, in which two sides present their cases to a neutral judge In contrast, in civil law systems, criminal proceedings proceed under an inquisitorial system in which an examining magistrate serves two roles by developing the evidence and arguments for one side and then the other during the investigation phase.

The examining magistrate then presents the dossier detailing his or her findings to the president of the bench that will adjudicate on the case where it has been decided that a trial shall be conducted. Therefore, the president of the bench's view of the case is not neutral and may be biased while conducting the trial after the reading of the dossier. Unlike the common law proceedings, the president of the bench in the inquisitorial system is not merely an umpire and is entitled to directly interview the witnesses or express comments during the trial, as long as he or she does not express his or her view on the guilt of the accused.

The proceeding in the inquisitorial system is essentially by writing. Most of the witnesses would have given evidence in the investigation phase and such evidence will be contained in the dossier under the form of police reports. In the same way, the accused would have already put his or her case at the investigation phase but he or she will be free to change her or his evidence at trial. Whether the accused pleads guilty or not, a trial will be conducted. Unlike the adversarial system, the conviction and sentence to be served (if any) will be released by the trial jury together with the president of the trial bench, following their common deliberation.

There are many exceptions in both directions. For example, most proceedings before U.S. federal and state agencies are inquisitorial in nature, at least the initial stages (e.g.,

a patent examiner, a social security hearing officer, and so on), even though the law to be applied is developed through common law processes.

Contrasting role of treatises and academic writings in common law and civil law systems
The role of the legal academy presents a significant "cultural" difference between common law (connotation 2) and civil law jurisdictions. In both systems, treatises compile decisions and state overarching principles that (in the author's opinion) explain the results of the cases. In neither system are treatises considered "law," but the weight given them is nonetheless quite different.

In common law jurisdictions, lawyers and judges tend to use these treatises as only "finding aids" to locate the relevant cases. In common law jurisdictions, scholarly work is seldom cited as authority for what the law is. Chief Justice Roberts noted the "great disconnect between the academy and the profession." When common law courts rely on scholarly work, it is almost always only for factual findings, policy justification, or the history and evolution of the law, but the court's legal conclusion is reached through analysis of relevant statutes and common law, seldom scholarly commentary.

In contrast, in civil law jurisdictions, courts give the writings of law professors significant weight, partly because civil law decisions traditionally were very brief, sometimes no more than a paragraph stating who wins and who loses. The rationale had to come from somewhere else: the academy often filled that role.

Narrowing of differences between common law and civil law
The contrast between civil law and common law legal systems has become increasingly blurred, with the growing importance of jurisprudence (similar to case law but not binding) in civil law countries, and the growing importance of statute law and codes in common law countries.

Examples of common law being replaced by statute or codified rule in the United States include criminal law (since 1812, U.S. federal courts and most but not all of the States have held that criminal law must be embodied in statute if the public is to have fair notice), commercial law (the Uniform Commercial Code in the early 1960s) and procedure (the Federal Rules of Civil Procedure in the 1930s and the Federal Rules of Evidence in the 1970s). But note that in each case, the statute sets the general principles, but the interstitial common law process determines the scope and application of the statute.

An example of convergence from the other direction is shown in the 1982 decision Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health (ECLI:EU:C:1982:335), in which the European Court of Justice held that questions it has already answered need not be resubmitted. This showed how a historically distinctly common law principle is used by a court composed of judges (at that time) of essentially civil law jurisdiction.

Other alternatives
The former Soviet Bloc and other Socialist countries used a Socialist law system.

Much of the Muslim world uses Sharia (also called Islamic law).

Common law legal systems in the present day
In jurisdictions around the world
The common law constitutes the basis of the legal systems of:

Australia (both federal and individual states),
Bangladesh,
Belize,
Brunei,
Canada (both federal and the individual provinces (except Quebec)),
the Caribbean jurisdictions of Antigua and Barbuda, Barbados, Bahamas, Dominica, Grenada, Jamaica, St Vincent and the Grenadines, Saint Kitts and Nevis, Trinidad and Tobago,
Hong Kong,
India,
Ireland,
Israel,
Kenya,
Malaysia,
Myanmar,
New Zealand,
Pakistan,
Singapore,
South Africa,
United Kingdom:
England and Wales,
Northern Ireland,
United States (both the federal system and the individual states (with the partial exception of Louisiana)),
and many other generally English-speaking countries or Commonwealth countries (except the UK's Scotland, which is bijuridicial, and Malta). Essentially, every country that was colonized at some time by England, Great Britain, or the United Kingdom uses common law except those that were formerly colonized by other nations, such as Quebec (which follows the law of France in part), South Africa and Sri Lanka (which follow Roman Dutch law), where the prior civil law system was retained to respect the civil rights of the local colonists. Guyana and Saint Lucia have mixed Common Law and Civil Law systems.

The remainder of this section discusses jurisdiction-specific variants, arranged chronologically.

Scotland

Scotland is often said to use the civil law system, but it has a unique system that combines elements of an uncodified civil law dating back to the Corpus Juris Civilis with an element of its own common law long predating the Treaty of Union with England in 1707 (see Legal institutions of Scotland in the High Middle Ages), founded on the customary laws of the tribes residing there. Historically, Scottish common law differed in that the use of precedent was subject to the courts' seeking to discover the principle that justifies a law rather than searching for an example as a precedent, and principles of natural justice and fairness have always played a role in Scots Law. From the 19th century, the Scottish approach to precedent developed into a stare decisis akin to that already established in England thereby reflecting a narrower, more modern approach to the application of case law in subsequent instances. This is not to say that the substantive rules of the common laws of both countries are the same although in many matters (particularly those of UK-wide interest) they are similar.

Scotland shares the Supreme Court, with England, Wales and Northern Ireland for civil cases; the court's decisions are binding on the jurisdiction from which a case arises but only influential on similar cases arising in Scotland. This has had the effect of converging the law in certain areas. For instance, the modern UK law of negligence is based on Donoghue v Stevenson, a case originating in Paisley, Scotland.

Scotland maintains a separate criminal law system from the rest of the UK, with the High Court of Justiciary being the final court for criminal appeals. The highest court of appeal in civil cases brought in Scotland is now the Supreme Court of the United Kingdom (before October 2009, final appellate jurisdiction lay with the House of Lords).

States of the United States (17th Century on)

The centuries-old authority of the common law courts in England to develop law case by case and to apply statute law—"legislating from the bench"— is a traditional function of courts, which was carried over into the U.S. system as an essential component of the "judicial power" specified by Article III of the U.S. constitution. Justice Oliver Wendell Holmes, Jr. summarized centuries of history in 1917, "judges do and must legislate" (in the federal courts, only interstitially, in state courts, to the full limits of common law adjudicatory authority).

New York (17th century)

The state of New York, which also has a civil law history from its Dutch colonial days, began a codification of its law in the 19th century. The only part of this codification process that was considered complete is known as the Field Code applying to civil

procedure. The original colony of New Netherland was settled by the Dutch and the law was also Dutch. When the English captured pre-existing colonies they continued to allow the local settlers to keep their civil law. However, the Dutch settlers revolted against the English and the colony was recaptured by the Dutch. When the English finally regained control of New Netherland they forced, as a punishment unique in the history of the British Empire, the English imposed common law upon all the colonists, including the Dutch. This was problematic, as the patroon system of land holding, based on the feudal system and civil law, continued to operate in the colony until it was abolished in the mid-19th century. The influence of Roman-Dutch law continued in the colony well into the late 19th century. The codification of a law of general obligations shows how remnants of the civil law tradition in New York continued on from the Dutch days.

Louisiana (1700s)
Under Louisiana's codified system, the Louisiana Civil Code, private law—that is, substantive law between private sector parties—is based on principles of law from continental Europe, with some common law influences. These principles derive ultimately from Roman law, transmitted through French law and Spanish law, as the state's current territory intersects the area of North America colonized by Spain and by France. Contrary to popular belief, the Louisiana code does not directly derive from the Napoleonic Code, as the latter was enacted in 1804, one year after the Louisiana Purchase. However, the two codes are similar in many respects due to common roots.

Louisiana's criminal law largely rests on English common law. Louisiana's administrative law is generally similar to the administrative law of the U.S. federal government and other U.S. states. Louisiana's procedural law is generally in line with that of other U.S. states, which in turn is generally based on the U.S. Federal Rules of Civil Procedure.

Historically notable among the Louisiana code's differences from common law is the role of property rights among women, particularly in inheritance gained by widows.

California (1850s)
The U.S. state of California has a system based on common law, but it has codified the law in the manner of the civil law jurisdictions. The reason for the enactment of the California Codes in the 19th century was to replace a pre-existing system based on Spanish civil law with a system based on common law, similar to that in most other states. California and a number of other Western states, however, have retained the concept of community property derived from civil law. The California courts have treated portions of the codes as an extension of the common-law tradition, subject to judicial development in the same manner as judge-made common law. (Most notably, in the case Li v. Yellow Cab Co., 13 Cal.3d 804 (1975), the California Supreme Court adopted the principle of comparative negligence in the face of a California Civil Code provision codifying the traditional common-law doctrine of contributory negligence.)

United States Federal Courts (1789 and 1938)

USCA: some annotated volumes of the official compilation and codification of federal statutes.
The United States federal government (as opposed to the states) has a variant on a common law system. United States federal courts only act as interpreters of statutes and the constitution by elaborating and precisely defining broad statutory language (connotation 1(b) above), but, unlike state courts, do not act as an independent source of common law.

Before 1938, the federal courts, like almost all other common law courts, decided the law on any issue where the relevant legislature (either the U.S. Congress or state legislature, depending on the issue), had not acted, by looking to courts in the same system, that is, other federal courts, even on issues of state law, and even where there was no express grant of authority from Congress or the Constitution.

In 1938, the U.S. Supreme Court in Erie Railroad Co. v. Tompkins 304 U.S. 64, 78 (1938), overruled earlier precedent, and held "There is no federal general common law," thus confining the federal courts to act only as interpreters of law originating elsewhere. E.g., Texas Industries v. Radcliff, 451 U.S. 630 (1981) (without an express grant of statutory authority, federal courts cannot create rules of intuitive justice, for example, a right to contribution from co-conspirators). Post-1938, federal courts deciding issues that arise under state law are required to defer to state court interpretations of state statutes, or reason what a state's highest court would rule if presented with the issue, or to certify the question to the state's highest court for resolution.

Later courts have limited Erie slightly, to create a few situations where United States federal courts are permitted to create federal common law rules without express statutory authority, for example, where a federal rule of decision is necessary to protect uniquely federal interests, such as foreign affairs, or financial instruments issued by the federal government. See, e.g., Clearfield Trust Co. v. United States, 318 U.S. 363 (1943) (giving federal courts the authority to fashion common law rules with respect to issues of federal power, in this case negotiable instruments backed by the federal government); see also International News Service v. Associated Press, 248 U.S. 215 (1918) (creating a cause of action for misappropriation of "hot news" that lacks any statutory grounding); but see National Basketball Association v. Motorola, Inc., 105 F.3d 841, 843–44, 853 (2d Cir. 1997) (noting continued vitality of INS "hot news" tort under New York state law, but leaving open the question of whether it survives under federal law). Except on Constitutional issues, Congress is free to legislatively overrule federal courts' common law.

United States Executive Branch Agencies (1946)

Most executive branch agencies in the United States federal government have some adjudicatory authority. To greater or lesser extent, agencies honor their own precedent

to ensure consistent results. Agency decision making is governed by the Administrative Procedure Act of 1946.

For example, the National Labor Relations Board issues relatively few regulations, but instead promulgates most of its substantive rules through common law (connotation 1).

Canada (1867)
Canada has separate federal and provincial legal systems. The division of jurisdiction between the federal and provincial Parliaments is specified in the Canadian constitution.

Canadian Provincial Law
Each province and territory is considered a separate jurisdiction with respect to common law matters. As such, only the provincial legislature may enact legislation to amend private law. Each has its own procedural law, statutorily created provincial courts and superior trial courts with inherent jurisdiction culminating in the Court of Appeal of the province. This is the highest court in provincial jurisdiction, only subject to the Supreme Court of Canada in terms of appeal of their decisions. All but one of the provinces of Canada use a common law system (the exception being Quebec, which uses a French-heritage civil law system for issues arising within provincial jurisdiction, such as property ownership and contracts).

Canadian Federal Law
Canadian Federal Courts operate under a separate system throughout Canada and deal with narrower subject matter than superior courts in provincial jurisdiction. They hear cases reserved for federal jurisdiction by the Canadian constitution, such as immigration, intellectual property, judicial review of federal government decisions, and admiralty. The Federal Court of Appeal is the appellate level court in federal jurisdiction and hears cases in multiple cities, and unlike the United States, the Canadian Federal Court of Appeal is not divided into appellate circuits.

Criminal law is uniform throughout Canada. It is based on the constitution and federal statutory Criminal Code, as interpreted by the Supreme Court of Canada. The administration of justice and enforcement of the criminal code are the responsibilities of the provinces.

Canadian federal statutes must use the terminology of both the common law and civil law for those matters; this is referred to as legislative bijuralism.

Israel (1948)
Israel has a common law legal system. Its basic principles are inherited from the law of the British Mandate of Palestine and thus resemble those of British and American law, namely: the role of courts in creating the body of law and the authority of the supreme court in reviewing and if necessary overturning legislative and executive decisions, as well as employing the adversarial system. One of the primary reasons that the Israeli constitution remains unwritten is the fear by whatever party holds power that creating a written constitution, combined with the common-law elements, would severely limit the

powers of the Knesset (which, following the doctrine of parliamentary sovereignty, holds near-unlimited power).

Roman Dutch Common Law

Roman Dutch Common law is a bijuridical or mixed system of law similar to the common law system in Scotland and Louisiana. Roman Dutch common law jurisdictions include South Africa, Botswana, Lesotho, Namibia, Swaziland, Sri-Lanka and Zimbabwe. Many of these jurisdictions recognize customary law, and in some, such as South Africa the Constitution requires that the common law be developed in accordance with the Bill of Rights. Roman Dutch common law is a development of Roman Dutch law by courts in the Roman Dutch common law jurisdictions. During the Napoleonic wars the Kingdom of the Netherlands adopted the French code civil in 1809, however the Dutch colonies in the Cape of Good Hope and Sri Lanka, at the time called Ceylon, were seized by the British to prevent them being used as bases by the French Navy. The system was developed by the courts and spread with the expansion of British colonies in Southern Africa. Roman Dutch common law relies on legal principles set out in Roman law sources such as Justinian's Institutes and Digest, and also on the writing of Dutch jurists of the 17th century such as Grotius and Voet. In practice, the majority of decisions rely on recent precedent.

Scholarly works

Sir William Blackstone as illustrated in his Commentaries on the Laws of England.
Edward Coke, a 17th-century Lord Chief Justice of the English Court of Common Pleas and a Member of Parliament, wrote several legal texts that collected and integrated centuries of case law. Lawyers in both England and America learned the law from his Institutes and Reports until the end of the 18th century. His works are still cited by common law courts around the world.

The next definitive historical treatise on the common law is Commentaries on the Laws of England, written by Sir William Blackstone and first published in 1765–1769. Since 1979, a facsimile edition of that first edition has been available in four paper-bound volumes. Today it has been superseded in the English part of the United Kingdom by Halsbury's Laws of England that covers both common and statutory English law.

While he was still on the Massachusetts Supreme Judicial Court, and before being named to the U.S. Supreme Court, Justice Oliver Wendell Holmes, Jr. published a short volume called The Common Law, which remains a classic in the field. Unlike Blackstone and the Restatements, Holmes' book only briefly discusses what the law is; rather, Holmes describes the common law process. Law professor John Chipman Gray's The Nature and Sources of the Law, an examination and survey of the common law, is also still commonly read in U.S. law schools.

In the United States, Restatements of various subject matter areas (Contracts, Torts, Judgments, and so on.), edited by the American Law Institute, collect the common law for the area. The ALI Restatements are often cited by American courts and lawyers for propositions of uncodified common law, and are considered highly persuasive authority,

just below binding precedential decisions. The Corpus Juris Secundum is an encyclopedia whose main content is a compendium of the common law and its variations throughout the various state jurisdictions.

Scots common law covers matters including murder and theft, and has sources in custom, in legal writings and previous court decisions. The legal writings used are called Institutional Texts and come mostly from the 17th, 18th and 19th centuries. Examples include Craig, Jus Feudale (1655) and Stair, The Institutions of the Law of Scotland (1681).

Distinctions Between Common Law and Civil Law Systems

Some countries will apply greater weight to certain sources of law than others, and some will put more emphasis on judicial decisions than others. There are two main types of legal system in the world, with most countries adopting features from one or other into their own legal systems, Common Law and Civil law.

This section looks at key features of each system and highlights areas which of particular relevance to PPP projects:

- **Common Law System**
- **Civil Law System**
- **Summary of Differences between Civil law and Common law legal systems**
- **Civil Law Systems - Key Administrative Jurisprudence that can impact PPP arrangements**
- **Other Civil Law rules that can impact PPP arrangements**
- **Concept of "Concession" as Understood in France - summary**

Common Law System

Countries following a common law system are typically those that were former British colonies or protectorates, including the United States. Features of a common law system include:

- There is not always a written constitution or codified laws;
- Judicial decisions are binding – decisions of the highest court can generally only be overturned by that same court or through legislation;
- Extensive freedom of contract - few provisions are implied into the contract by law (although provisions seeking to protect private consumers may be implied);
- Generally, everything is permitted that is not expressly prohibited by law.

A common law system is less prescriptive than a civil law system. A government may therefore wish to enshrine protections of its citizens in specific legislation related to the infrastructure program being contemplated. For example, it may wish to prohibit the service provider from cutting off the water or electricity supply of bad payers or may require that documents related to the transaction be disclosed under a freedom of

information act. There may also be legal requirements to imply into a contract in equal bargaining provisions where one party is in a much stronger bargaining position than the other. Please see Legislation and Regulation for more on this.

There are few provisions implied into a contract under the common law system – it is therefore important to set out ALL the terms governing the relationship between the parties to a contract in the contract itself. This will often result in a contract being longer than one in a civil law country.

Civil Law System

Countries following a civil law system are typically those that were former French, Dutch, German, Spanish or Portuguese colonies or protectorates, including much of Central and South America. Most of the Central and Eastern European and East Asian countries also follow a civil law structure.

The civil law system is a codified system of law. It takes its origins from Roman law. Features of a civil law system include:

- There is generally a written constitution based on specific codes (e.g., civil code, codes covering corporate law, administrative law, tax law and constitutional law) enshrining basic rights and duties; administrative law is however usually less codified and administrative court judges tend to behave more like common law judges;
- Only legislative enactments are considered binding for all. There is little scope for judge-made law in civil, criminal and commercial courts, although in practice judges tend to follow previous judicial decisions; consitutional and administrative courts can nullify laws and regulations and their decisions in such cases are binding for all.
- In some civil law systems, e.g., Germany, writings of legal scholars have significant influence on the courts;
- Courts specific to the underlying codes – there are therefore usually separate constitutional court, administrative court and civil court systems that opine on consistency of legislation and administrative acts with and interpret that specific code;
- Less freedom of contract - many provisions are implied into a contract by law and parties cannot contract out of certain provisions.

A civil law system is generally more prescriptive than a common law system. However, a government will still need to consider whether specific legislation is required to either limit the scope of a certain restriction to allow a successful infrastructure project, or may require specific legislation for a sector. Please go to Legislation and Regulation and “Organizing Government to think PPP” sections for more information on this.

There are a number of provisions implied into a contract under the civil law system – less importance is generally placed on setting out ALL the terms governing the relationship between the parties to a contract in the contract itself as inadequacies or

ambiguities can be remedied or resolved by operation of law. This will often result in a contract being shorter than one in a common law country.

It is also important to note in the area of infrastructure that certain forms of infrastructure projects are referred to by well-defined legal concepts in civil law jurisdictions. Concessions and Affermage have a definite technical meaning and structure to them that may not be understood or applied in a common law country. Care should be taken, therefore, in applying these terms loosely. This is further considered under Agreements.

Civil Law (Legal System)

Civil law, civilian law, or Roman law is a legal system originating in Europe, intellectualized within the framework of Roman law, the main feature of which is that its core principles are codified into a referable system which serves as the primary source of law. This can be contrasted with common law systems, the intellectual framework of which comes from judge-made decisional law, and gives precedential authority to prior court decisions, on the principle that it is unfair to treat similar facts differently on different occasions (doctrine of judicial precedent, or stare decisis).

Historically, a civil law is the group of legal ideas and systems ultimately derived from the Corpus Juris Civilis, but heavily overlaid by Napoleonic, Germanic, canonical, feudal, and local practices, as well as doctrinal strains such as natural law, codification, and legal positivism.

Conceptually, civil law proceeds from abstractions, formulates general principles, and distinguishes substantive rules from procedural rules. It holds case law secondary and subordinate to statutory law. Civil law is often paired with the inquisitorial system, but the terms are not synonymous.

There are key differences between a statute and a codal article. The most pronounced features of civil systems are their legal codes, with brief legal texts that typically avoid factually specific scenarios. The short articles in a civil law code deal in generalities and stand in contrast with statutory systems, which are often very long and very detailed.

Overview

The purpose of codification is to provide all citizens with manners and written collection of the laws which apply to them and which judges must follow. It is the most widespread system of law in the world, in force in various forms in about 150 countries. It draws heavily from Roman law, arguably the most intricate known legal system dating from before the modern era.

Where codes exist, the primary source of law is the law code, a systematic collection of interrelated articles, arranged by subject matter in some pre-specified order, that explain the principles of law, rights and entitlements, and how basic legal mechanisms work. Law codes are simply laws enacted by a legislature, even if they are in general much

longer than other laws. Other major legal systems in the world include common law, Islamic law, Halakha, and canon law.

Civil law countries can be divided into:

> those where Roman law in some form is still living law but there has been no attempt to create a civil code: Andorra and San Marino
>
> those with uncodified mixed systems in which civil law is an academic source of authority but common law is also influential: Scotland and the Roman-Dutch law countries (South Africa, Zimbabwe, Sri Lanka and Guyana)
>
> those with codified mixed systems in which civil law is the background law but has its public law heavily influenced by common law: Puerto Rico, Philippines, Quebec and Louisiana
>
> those with comprehensive codes that exceed a single civil code, such as France, Germany, Greece, Italy, Japan, Mexico, Russia, Spain: it is this last category that is normally regarded as typical of civil law systems, and is discussed in the rest of this article.
>
> The Scandinavian systems are of a hybrid character since their background law is a mix of civil law and Scandinavian customary law and they have been partially codified. Likewise, the laws of the Channel Islands (Jersey, Guernsey, Alderney, Sark) mix Norman customary law and French civil law.

A prominent example of a civil-law is the Napoleonic Code (1804), named after French emperor Napoleon. The code comprises three components:

> the law of persons
> property law
> commercial law

Rather than a compendium of statutes or catalog of case law, the code sets out general principles as rules of law

Unlike common law systems, civil law jurisdictions deal with case law apart from any precedent value. Civil law courts generally decide cases using codal provisions on a case-by-case basis, without reference to other (or even superior) judicial decisions. In actual practice, an increasing degree of precedent is creeping into civil law jurisprudence, and is generally seen in many nations' highest courts. While the typical French-speaking supreme court decision is short, concise and devoid of explanation or justification, in Germanic Europe, the supreme courts can and do tend to write more verbose opinions, supported by legal reasoning. A line of similar case decisions, while not precedent per se, constitute jurisprudence constante. While civil law jurisdictions place little reliance on court decisions, they tend to generate a phenomenal number of

reported legal opinions. However, this tends to be uncontrolled, since there is no statutory requirement that any case be reported or published in a law report, except for the councils of state and constitutional courts. Except for the highest courts, all publication of legal opinions are unofficial or commercial.

Civil law is sometimes referred to as neo-Roman law, Romano-Germanic law or Continental law. The expression "civil law" is a translation of Latin jus civile, or "citizens' law", which was the late imperial term for its legal system, as opposed to the laws governing conquered peoples (jus gentium); hence, the Justinian Code's title Corpus Juris Civilis. Civil law practitioners, however, traditionally refer to their system in a broad sense as jus commune, literally "common law", meaning the general principles of law as opposed to laws specific to particular areas. (The use of "common law" for the Anglo-Saxon systems may or may not be influenced by this usage.)

History

Civil law takes as its major inspiration classical Roman law (c. AD 1–250), and in particular Justinian law (6th century AD), and further expanded and developed in the late Middle Ages under the influence of canon law. The Justinian Code's doctrines provided a sophisticated model for contracts, rules of procedure, family law, wills, and a strong monarchical constitutional system. Roman law was received differently in different countries. In some it went into force wholesale by legislative act, i.e., it became positive law, whereas in others it was diffused into society by increasingly influential legal experts and scholars.

Roman law continued without interruption in the Byzantine Empire until its final fall in the 15th century. However, given the multiple incursions and occupations by Western European powers in the late medieval period, its laws became widely implemented in the West. It was first received in the Holy Roman Empire partly because it was considered imperial law, and it spread in Europe mainly because its students were the only trained lawyers. It became the basis of Scots law, though partly rivaled by received feudal Norman law. In England, it was taught academically at Oxford and Cambridge, but underlay only probate and matrimonial law insofar as both were inherited from canon law, and maritime law, adapted from lex mercatoria through the Bordeaux trade.

Consequently, neither of the two waves of Roman influence completely dominated in Europe. Roman law was a secondary source that was applied only when local customs and laws were found lacking on a certain subject. However, after a time, even local law came to be interpreted and evaluated primarily on the basis of Roman law, since it was a common European legal tradition of sorts, and thereby in turn influenced the main source of law. Eventually, the work of civilian glossators and commentators led to the development of a common body of law and writing about law, a common legal language, and a common method of teaching and scholarship, all termed the jus commune, or law common to Europe, which consolidated canon law and Roman law, and to some extent, feudal law.

Codification

An important common characteristic of civil law, aside from its origins in Roman law, is the comprehensive codification of received Roman law, i.e., its inclusion in civil codes. The earliest codification known is the Code of Hammurabi, written in ancient Babylon during the 18th century BC. However, this, and many of the codes that followed, were mainly lists of civil and criminal wrongs and their punishments. The codification typical of modern civilian systems did not first appear until the Justinian Code.

Germanic codes appeared over the 6th and 7th centuries to clearly delineate the law in force for Germanic privileged classes versus their Roman subjects and regulate those laws according to folk-right. Under feudal law, a number of private custumals were compiled, first under the Norman empire (Très ancien coutumier, 1200–1245), then elsewhere, to record the manorial – and later regional – customs, court decisions, and the legal principles underpinning them. Custumals were commissioned by lords who presided as lay judges over manorial courts in order to inform themselves about the court process. The use of custumals from influential towns soon became commonplace over large areas. In keeping with this, certain monarchs consolidated their kingdoms by attempting to compile custumals that would serve as the law of the land for their realms, as when Charles VII of France in1454 commissioned an official custumal of Crown law. Two prominent examples include the Coutume de Paris (written 1510; revised 1580), which served as the basis for the Napoleonic Code, and the Sachsenspiegel (c. 1220) of the bishoprics of Magdeburg and Halberstadt which was used in northern Germany, Poland, and the Low Countries.

The concept of codification was further developed during the 17th and 18th centuries AD, as an expression of both natural law and the ideas of the Enlightenment. The political ideals of that era was expressed by the concepts of democracy, protection of property and the rule of law. Those ideals required certainty of law, recorded, uniform law. So, the mix of Roman law and customary and local law gave way to law codification.

Also, the notion of a nation-state implied recorded law that would be applicable to that state.

There was also a reaction to law codification. The proponents of codification regarded it as conducive to certainty, unity and systematic recording of the law; whereas its opponents claimed that codification would result in the ossification of the law.

In the end, despite whatever resistance to codification, the codification of European private laws moved forward. Codifications were completed by Denmark (1687), Sweden (1734), Prussia (1794), France (1804), and Austria (1811). The French codes were imported into areas conquered by Napoleon and later adopted with modifications in Poland (Duchy of Warsaw/Congress Poland; Kodeks cywilny 1806/1825), Louisiana (1807), Canton of Vaud (Switzerland; 1819), the Netherlands (1838), Serbia (1844), Italy and Romania (1865), Portugal (1867) and Spain (1888). Germany (1900), and

Switzerland (1912) adopted their own codifications. These codifications were in turn imported into colonies at one time or another by most of these countries. The Swiss version was adopted in Brazil (1916) and Turkey (1926).

In the United States, U.S. states began codification with New York's "Field Code" (1850), followed by California's codes (1872), and the federal revised statutes (1874) and the current United States Code (1926).

In Japan, at the beginning of the Meiji Era, European legal systems—especially the civil law of Germany and France—were the primary models for the judicial and legal systems. In China, the German Civil Code was introduced in the later years of the Qing dynasty, emulating Japan. In addition, it formed the basis of the law of the Republic of China, which remains in force in Taiwan. Furthermore, Korea, Taiwan, and Manchuria, former Japanese colonies, have been strongly influenced by the Japanese legal system.

Some authors consider civil law the foundation for socialist law used in communist countries, which in this view would basically be civil law with the addition of Marxist-Leninist ideals. Even if this is so, civil law was generally the legal system in place before the rise of socialist law, and some Eastern European countries reverted to the pre-socialist civil law following the fall of socialism, while others continued using a socialist legal systems.

Several civil-law mechanisms seem to have been borrowed from medieval Islamic Sharia and fiqh. For example, the Islamic hawala (hundi) underlies the avallo of Italian law and the aval of French and Spanish law.

Subgroups

The term civil law comes from English legal scholarship and is used in English-speaking countries to lump together all legal systems of the jus commune tradition. However, legal comparativists and economists promoting the legal origins theory prefer to subdivide civil law jurisdictions into four distinct groups:

> Napoleonic: France, Italy, the Netherlands, Spain, Chile, Belgium, Luxembourg, Portugal, Brazil, other CPLP countries, Macau, former Portuguese territories in India (Goa, Daman and Diu and Dadra and Nagar Haveli), Romania, and most of the Arab world when Islamic law is not used. Former colonies include Quebec (Canada) and Louisiana (U.S.).
>
> The Chilean Code is an original work of jurist and legislator Andrés Bello. Traditionally, the Napoleonic Code has been considered the main source of inspiration for the Chilean Code. However, this is true only with regard to the law of obligations and the law of things (except for the principle of abstraction), while it is not true at all in the matters of family and successions. This code was integrally adopted by Ecuador, El Salvador, Nicaragua, Honduras, Colombia, Panama and Venezuela (although only for one year). According to other Latin

American experts of its time, like Augusto Teixeira de Freitas (author of the "Esboço de um Código Civil para o Brasil") or Dalmacio Vélez Sársfield (main author of the Argentinian Civil Code), it is the most important legal accomplishments of Latin America.

Cameroon, a former colony of both France and United Kingdom, is bi-juridical/mixed

South Africa, a former colony of the United Kingdom, was heavily influenced by colonists from the Netherlands and therefore is bi-juridical/mixed.

Germanistic: Germany, Austria, Switzerland, Latvia, Estonia, Roman-Dutch, Czech Republic, Lithuania, Croatia, Hungary, Serbia, Slovenia, **Slovakia**, Bosnia and Herzegovina, Greece, Ukraine, Turkey, Japan, South Korea, Taiwan and Thailand.

Nordic: Denmark, Finland, Iceland, Norway, and Sweden

Chinese (except Hong Kong and Macau) is a mixture of civil law and socialist law. Presently, Chinese laws absorb some features of common law system, especially those related to commercial and international transactions. Hong Kong, although part of China, uses common law. The Basic Law of Hong Kong ensures the use and status of common law in Hong Kong. Macau continues to have a Portuguese legal system of civil law.

However, some of these legal systems are often and more correctly said to be of hybrid nature:

Napoleonic to Germanistic influence: The Italian civil code of 1942 replaced the original one of 1865, introducing germanistic elements due to the geopolitical alliances of the time. This approach has been imitated by other countries, including Portugal (1966), the Netherlands (1992), Brazil (2002) and Argentina (2014). Most of them have innovations introduced by the Italian legislation, including the unification of the civil and commercial code.

Germanistic to Napoleonic influence: The Swiss civil code is considered mainly influenced by the German civil code and partly influenced by the French civil code. The civil code of the Republic of Turkey is a slightly modified version of the Swiss code, adopted in 1926 during Mustafa Kemal Atatürk's presidency as part of the government's progressive reforms and secularization.

Some systems of civil law do not fit neatly into this typology, however. Polish law developed as a mixture of French and German civil law in the 19th century. After the reunification of Poland in 1918, five legal systems (French Napoleonic Code from the Duchy of Warsaw, German BGB from Western Poland, Austrian ABGB from Southern Poland, Russian law from Eastern Poland, and Hungarian law from Spisz and Orawa)

were merged into one. Similarly, Dutch law, while originally codified in the Napoleonic tradition, has been heavily altered under influence from the Dutch native tradition of Roman-Dutch law (still in effect in its former colonies). Scotland's civil law tradition borrowed heavily from Roman-Dutch law. Swiss law is categorized as Germanistic, but it has been heavily influenced by the Napoleonic tradition, with some indigenous elements added in as well.

Louisiana private law is primarily a Napoleonic system. Louisiana is the only U.S. state partially based on French and Spanish codes and ultimately Roman law, as opposed to English common law. In Louisiana, private law was codified into the Louisiana Civil Code. Current Louisiana law has converged considerably with American law, especially in its public law, judicial system, and adoption of the Uniform Commercial Code (except for Article 2) and certain legal devices of American common law. In fact, any innovation, whether private or public, has been decidedly common law in origin.

Quebec law, whose private law is also of French civil origin, has developed along the same lines, adapting in the same way as Louisiana to the public law and judicial system of Canadian common law. By contrast, Quebec private law has innovated mainly from civil sources.

To a lesser extent, other states formerly part of the Spanish Empire, such as Texas and California, have also retained aspects of Spanish civil law into their legal system, for example community property.

The legal system of Puerto Rico exhibits similarities to that of Louisiana: a civil code whose interpretations rely on both the civil and common law systems. Because Puerto Rico's Civil Code is based on the Spanish Civil Code of 1889, available jurisprudence has tended to rely on common law innovations due to the code's age and in many cases, obsolete nature.

Several Islamic countries have civil law systems that contain elements of Islamic law. As an example, the Egyptian Civil Code of 1810 that developed in the early 19th century—which remains in force in Egypt is the basis for the civil law in many countries of the Arab world where the civil law is used— is based on the Napoleonic Code, but its primary author Abd El-Razzak El-Sanhuri attempted to integrate principles and features of Islamic law in deference to the unique circumstances of Egyptian society.

Japanese Civil Code was considered as a mixture of roughly 60 percent of the German civil code and roughly 30 percent of the French civil code and 8 percent of Japanese customary law and 2 percent of the English law. The code includes the doctrine of ultra vires and a precedent of Hadley v Baxendale from English common law system.

Summary Of Differences Between Civil Law and Common Law Legal Systems
Set out below are a few key differences between common law and civil law jurisdictions.

Feature	**Common Law**	**Civil Law**

Written constitution	Not always	Always
Judicial decisions	Binding	Not binding on 3rd parties; **however**, administrative and constitutional court decisions on laws and regulations binding on all
Writings of legal scholars	Little influence	Significant influence in some civil law jurisdictions
Freedom of contract	Extensive – only a few provisions implied by law into contractual relationship	More limited – a number of provisions implied by law into contractual relationship
Court system applicable to PPP projects	In most cases contractual relationship is subject to private law and courts that deal with these issues	Most PPP arrangements (e.g. concessions) are seen as relating to a public service and subject to public administrative law administered by administrative courts

Comparison Chart
Differences — Similarities —

Civil Law versus Common Law comparison chart

	Civil Law	**Common Law**
Legal System	Legal system originating in Europe whose most prevalent feature is that its core principles are codified into a referable system which serves as the primary source of law.	Legal system characterized by case law, which is law developed by judges through decisions of courts and similar tribunals.
Role of judges	Chief investigator; makes rulings, usually non-binding to 3rd parties. In a civil law system, the judge's role is to establish the facts of the case and to apply the provisions of the applicable code. Though the judge often brings the formal charge	Makes rulings; sets precedent; referee between lawyers.Judges decide matters of law and, where a jury is absent, they also find facts. Most judges rarely inquire extensively into matters before them, instead relying on arguments presented by the part

Civil Law versus Common Law comparison chart

	Civil Law	Common Law
Countries	Spain, China, Japan, Germany, most African nations, all South American nations (except Guyana), most of Europe	United States, England, Australia, Canada, India
Constitution	Always	Not always
Precedent	Only used to determine administrative of constitutional court matters	Used to rule on future or present cases
Jury opinion	In cases of civil law, the opinion of the jury may not have to be unanimous. Laws vary by state and country. Juries are present almost exclusively in criminal cases; virtually never involved in civil actions. Judges ensure law prevails over passion.	Juries are comprised only of laypersons — never judges and, in practice, only rarely lawyers — and are rarely employed to decide non-criminal matters outside the United States. Their function is to weigh evidence presented to them, and to find fa
History	The civil law tradition developed in continental Europe at the same time and was applied in the colonies of European imperial powers such as Spain and Portugal.	Common law systems have evolved primarily in England and its former colonies, including all but one US jurisdiction and all but one Canadian jurisdiction. For the most part, the English-speaking world operates under common law.
Sources of Law	1. Constitution 2. Legislation – statutes and subsidiary legislation 3. Custom 4. International Law 5. Nota bene: It may be argued that judicial precedents and conventions also function within Continental systems, but they are not generally recognzed	1. Constitution (not in the UK) 2. Legislation – Statutes and subsidiary legislation 3. Judicial precedent – common law and equity 4. Custom 5. Convention 6. International Law
Type of argument and role of lawyers	Inquisitorial. Judges, not lawyers, ask questions and demand evidence. Lawyers present arguments based on the evidence the court finds.	Adversarial. Lawyers ask questions of witnesses, demand production of evidence, and present cases based on the evidence they have gathered.

Civil Law versus Common Law comparison chart

	Civil Law	Common Law
Evidence Taking	Evidence demands are within the sovereign inquisitorial function of the court — not within the lawyers' role. As such, "discovery" by foreign attorneys is dimly viewed, and can even lead to criminal sanctions where the court's role is usurp	Widely understood to be a necessary part of the litigants' effective pursuit or defense of a claim. Litigants are given wide latitude in US jurisdictions, but more limited outside the US. In any event, the litigants and their lawyers undertake to a
Evolution	Both systems have similar sources of law- both have statutes and both have case law, they approach regulation and resolve issues in different ways, from different perspectives	Both systems have similar sources of law- both have statutes and both have case law, they approach regulation and resolve issues in different ways, from different perspectives

	Common law	Civil law
Other names	Anglo-American, English, judge-made, legislation from the bench	Continental, Romano-Germanic
Source of law	Case law, statutes/legislation	Statutes/legislation
Lawyers	Judges act as impartial referees; lawyers are responsible for presenting the case	Judges dominate trials
Judges' qualifications	Career lawyers (appointed or elected)	Career judges
Degree of judicial independence	High	High; separate from the executive and the legislative branches of government

	Common law	Civil law
Juries	Provided at trial level	May adjudicate in conjunction with judges in serious criminal matters
Policy-making role	Courts share in balancing power	Courts have equal but separate power
Examples	Australia, United Kingdom (except Scotland), India, Cyprus, Nigeria, Republic of Ireland, Singapore, Hong Kong, United States (except Louisiana), Canada(except Quebec), New Zealand, Pakistan, Malaysia, Bangladesh	All European Union states (except the UK, Ireland, and Cyprus) and European states, all of continental South and Middle America (except Guyana and Belize), Quebec, all of East Asia (except Hong Kong), DR Congo, Azerbaijan, Kuwait, Iraq, Russia, Turkey, Egypt, Madagascar, Lebanon, Switzerland, Indonesia, Vietnam, Thailand, Louisiana

	Socialist law	Islamic law
Other names	Soviet	Religious law, Sharia
Source of law	Statutes/legislation	Religious documents
Lawyers	Judges dominate trials	Secondary role
Judges' qualifications	Career bureaucrats, Party members	Religious as well as legal training
Degree of judicial independence	Very limited	Ranges from very limited to high

	Socialist law	Islamic law
Juries	Often used at lowest level	Allowed in Maliki school, not allowed in other schools
Policy-making role	Courts are subordinate to the legislature	Courts and other government branches are theoretically subordinate to the Shari'a. In practice, courts historically made the Shari'a, while today, the religious courts are generally subordinate to the executive.
Examples	Soviet Union, Law of China, Cuba	Many Muslim countries have adopted parts of Sharia Law. Examples include Saudi Arabia, Afghanistan, Iran, United Arab Emirates, Oman, Sudan, Malaysia, Pakistanand Yemen.

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Examples	Soviet Union, Law of China, Cuba	Many Muslim countries have adopted parts of Sharia Law. Examples include Saudi Arabia, Afghanistan, Iran, United Arab Emirates, Oman, Sudan, Malaysia, Pakistan and Yemen.

Areas of Law in the U. S.

Because of the complexity of U.S. state and federal law most lawyers become specialist in one or several areas of practice. Although are a significant number of general practitioners in the country when presented a new or significant legal issue they will seek the assistance of an attorney with special expertise. Some states provided certification specialsts. Also some states and federal courts require special qualifications for trial attorneys.

The following is a list of major areas of legal practice and important legal subject-matters.

By area of study and practice

Administrative law
Advertising law
Admiralty law
Agency law
Alcohol law

Alternative dispute resolution
Animal law
Antitrust law (or competition law)
Appellate practice
Art law (or art and culture law)
Aviation law
Banking law
Bankruptcy law (creditor debtor rights law or insolvency and reorganization law)
Bioethics
Business law (or commercial law); commercial litigation
Business organizations law (or companies law)
Civil law or common law
Class action litigation/Mass tort litigation
Common Interest Development law
Communications law
Computer law
Conflict of law (or private international law)
Constitutional law
Construction law
Consumer law
Contract law
Copyright law
Corporate law (or company law), also corporate compliance law and corporate governance law
Criminal law
Cryptography law
Cultural property law
Custom (law)
Cyber law
Defamation
Derivatives and futures law
Drug control law
Ecclesiastical law (or Canon law)
Elder law
Employee benefits law (ERISA)
Employment law
Energy law
Entertainment law
Environmental law
Equipment finance law
Family law
FDA law
Financial services regulation law
Firearm law
Food law

Franchise law
Gaming law
Health and safety law
Health law
HOA law
Immigration law
Insurance law
Intellectual property law
International law
International human rights law
International trade and finance law
Internet law
Juvenile law
Labour law (or Labor law)
Land use & zoning law
Litigation
Martial law
Media law
Medical law
Mergers & acquisitions law
Military law
Mining law
Music law
Mutual funds law
Nationality law
Native American law
Obscenity law
Oil & gas law
Parliamentary law
Patent law
Poverty law
Privacy law
Private equity law
Private funds law / Hedge funds law
Procedural law
Product liability litigation
Property law
Public health law
Public International Law
Railway law
Real estate law
Securities law / Capital markets law
Social Security disability law
Space law
Sports law
Statutory law

Tax law
Technology law
Timber law
Tort law
Trademark law
Transport law / Transportation law
Trusts & estates law
Utilities Regulation
Venture capital law
Water law

Common Forms of Businesses Organizations in the U. S.:

Sole Proprietorships
Partnerships
Corporations
Limited Liability Companies (LLC)
Subchapter S Corporations (S Corporations)

While state law controls the formation of your business, federal tax law controls how a business is taxed. All businesses must file an annual return. The form you use depends on how your business is organized.

The answer to the question "What structure makes the most sense?" depends on the individual circumstances of each business owner. One form is not necessarily better than any other. Each business owner must assess their own needs. Here is a brief look at the various business forms.

Sole Proprietorship
A sole proprietorship is the most common form of business organization. It's easy to form and offers complete control to the owner. But the business owner is also personally liable for all financial obligations and debts of the business.

As a sole proprietor you can operate any kind of business as long as you are the only owner. It can be full-time or part-time work. This includes operating a:

Shop or retail trade business
Large company with employees
Home-based business
One-person consulting firm
Every sole proprietor is required to keep sufficient records to comply with federal tax requirements regarding business records.

Your net business income or loss is combined with your other income (other income could be your salary if you also work for someone else, or your investments) and deductions and taxed at individual rates on your personal tax return.

Sole proprietors do not have taxes withheld from their business income so you may need to make quarterly estimated tax payments. You generally have to make estimated tax payments if you expect to owe tax of $1,000 or more when you file your return. Use Form 1040-ES, Estimated Tax for Individuals, to figure and pay your estimated tax.

Partnership
A partnership is the relationship existing between two or more persons who join to carry on a trade or business. Each person contributes money, property, labor or skill, and expects to share in the profits and losses of the business.

Each partner reports his share of the partnership net profit or loss on his personal tax return. Partners must report their share of partnership income even if a distribution is not made.

Partners are not employees of the partnership and so taxes are not withheld from any distributions. Like sole proprietors, they generally need to make quarterly estimated tax payments if they expect to make a profit.

Corporation
A corporate structure is more complex than other business structures. It requires complying with more regulations and tax requirements.

Corporations are formed under the laws of each state and are subject to corporate income tax at the federal and state level. In addition, any earnings distributed to shareholders in the form of dividends are taxed at the individual tax rates on their personal annual tax returns.

The corporation becomes an entity that handles the responsibilities of the business. Like a person, the corporation can be taxed and can be held legally liable for its actions. If you organize your business as a corporation, you are generally not personally liable for the debts of the corporation. (Exceptions may exist under state law.)

Corporations may be privately held or publicly held. Publicly held corporations are subject to regulation by the Securities and Exchange Commission (SEC). Violations of securities laws may subject the violator to civil and criminal penalties.

Limited Liability Company
A Limited Liability Company (LLC) is a relatively new business structure allowed by state statute.

LLCs are popular because, similar to a corporation, owners have limited personal liability for the debts and actions of the LLC. Other features of LLCs are more like a partnership, providing management flexibility and the benefit of pass-through taxation.

Owners of an LLC are called members. Since most states do not restrict ownership, members may include individuals, corporations, other LLCs and foreign entities. Most states also permit "single member" LLCs, those having only one owner.

Subchapter S Corporation
The Subchapter S Corporation is a variation of the standard corporation. The S corporation allows income or losses to be passed through to individual tax returns, similar to a partnership.

Generally, an S corporation is exempt from federal income tax other than tax on certain capital gains and passive income.

Regulations
Regulations are issued by U.S. Federal government Departments and Agencies to interpret and implement laws passed by Congress. When Congress passes a law directing an agency to perform an action, the Department may issue a regulation further interpreting the language in the law. Not all laws require regulations. Agencies generally can issue, modify, or amend regulations without seeking additional action from Congress.

For more information on when issuing regulations is necessary, please see The Administrative Procedure Act (5 U.S.C. 552).

Issuing a regulation requires several steps:

> First, the agency publishes a proposed regulation in the Federal Register for public comment, so that any member of the public can suggest changes or ask questions for clarification.
> Second, after the comment period closes, the agency considers comments and questions it received, and makes changes to the proposed regulation as it thinks necessary to address the comments and questions submitted.
> Finally, once those changes are made, the agency publishes the final regulation in the Federal Register.

The final published regulation holds the force and effect of law, and establishes requirements. If an agency wants to update or change a regulation, it must go through the steps above to do so. Some agencies might have additional steps for issuing a regulation. Agencies may issue an interim regulation or more than one proposed version of a regulation, but all agencies must go through these basic steps to publish a regulation.

In US Code 21 CFR 58, the Title is presented as the first 2 digits; Code of Federal Regulations as CFR; and the section as last 2 digits.

The annual CFR provides the most recent version of a rule as of the date the volume is published. Rules issued during the year that have not yet been codified into the CFR

may be found in the Federal Register. The federal register notice also usually provides the agency's explanation of the final regulation, its response to public comments, and any changes the agency made to the regulation from prior versions in response to comments.

If you want to see regulations that have been issued in the current year, or the agencies explanation of the rule, you should consult the federal register.

Deference by Courts.
The term Chevron doctrine comes from the case *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). It refers to a defense invoked by a government agency allowing the court to show deference to the agency's interpretation of a law the it administers. It basically says that if Congress hasn't addressed the matter, the agency's interpretation of a regulation or statute it administers is permissible it should be deferred to.

Environmental Laws & Regulations
Notwithstanding early analogues, the concept of "environmental law" as a separate and distinct body of law is a twentieth-century development. The recognition that the natural environment was fragile and in need of special legal protections, the translation of that recognition into legal structures, the development of those structures into a larger body of "environmental law," and the strong influence of environmental law on natural resource laws, did not occur until about the 1960s. At that time, numerous influences - including a growing awareness of the unity and fragility of the biosphere; increased public concern over the impact of industrial activity on natural resources and human health; the increasing strength of the regulatory state; and more broadly the advent and success of environmentalism as a political movement - coalesced to produce a huge new body of law in a relatively short period of time. While the modern history of environmental law is one of continuing controversy, by the end of the twentieth century environmental law had been established as a component of the legal landscape in all developed nations of the world, many developing ones, and the larger project of international law. In the U.S. the Environmental Protection Agency (EPA) regulates environmental issues.

Pollution Control
Air quality
Industrial air pollution now regulated by air quality law

Water Quality Law
Water quality laws govern the release of pollutants into water resources, including surface water, ground water, and stored drinking water. Some water quality laws, such as drinking water regulations, may be designed solely with reference to human health. Many others, including restrictions on the alteration of the chemical, physical, radiological, and biological characteristics of water resources, may also reflect efforts to protect aquatic ecosystems more broadly. Regulatory efforts may include identifying and categorizing water pollutants, dictating acceptable pollutant concentrations in water

resources, and limiting pollutant discharges from effluent sources. Regulatory areas include sewage treatment and disposal, industrial and agricultural waste water management, and control of surface runoff from construction sites and urban environments.

Waste Management
A landfill.
Waste management laws govern the transport, treatment, storage, and disposal of all manner of waste, including municipal solid waste, hazardous waste, and nuclear waste, among many other types. Waste laws are generally designed to minimize or eliminate the uncontrolled dispersal of waste materials into the environment in a manner that may cause ecological or biological harm, and include laws designed to reduce the generation of waste and promote or mandate waste recycling. Regulatory efforts include identifying and categorizing waste types and mandating transport, treatment, storage, and disposal practices.

Contaminant Cleanup
Oil spill cleanup.
Environmental cleanup laws govern the removal of pollution or contaminants from environmental media such as soil, sediment, surface water, or ground water. Unlike pollution control laws, cleanup laws are designed to respond after-the-fact to environmental contamination, and consequently must often define not only the necessary response actions, but also the parties who may be responsible for undertaking (or paying for) such actions. Regulatory requirements may include rules for emergency response, liability allocation, site assessment, remedial investigation, feasibility studies, remedial action, post-remedial monitoring, and site reuse.

Chemical Safety
Chemical safety laws govern the use of chemicals in human activities, particularly man-made chemicals in modern industrial applications. As contrasted with media-oriented environmental laws (e.g., air or water quality laws), chemical control laws seek to manage the (potential) pollutants themselves. Regulatory efforts include banning specific chemical constituents in consumer products (e.g., Bisphenol A in plastic bottles), and regulating pesticides.

Resource Sustainability
Environmental impact assessment (EA) is the assessment of the environmental consequences (positive and negative) of a plan, policy, program, or actual projects prior to the decision to move forward with the proposed action. In this context, the term "environmental impact assessment" (EIA) is usually used when applied to actual projects by individuals or companies and the term "strategic environmental assessment" (SEA) applies to policies, plans and programs most often proposed by organs of state. Environmental assessments may be governed by rules of administrative procedure regarding public participation and documentation of decision making, and may be subject to judicial review.

Water Resources
Water resources laws govern the ownership and use of water resources, including surface water and ground water. Regulatory areas may include water conservation, use restrictions, and ownership regimes.

Mineral Resources
Mineral resource laws cover several basic topics, including the ownership of the mineral resource and who can work them. Mining is also affected by various regulations regarding the health and safety of miners, as well as the environmental impact of mining.

Forest Resources
Forestry laws govern activities in designated forest lands, most commonly with respect to forest management and timber harvesting. Ancillary laws may regulate forest land acquisition and prescribed burn practices. Forest management laws generally adopt management policies, such as multiple use and sustained yield, by which public forest resources are to be managed. Governmental agencies are generally responsible for planning and implementing forestry laws on public forest lands, and may be involved in forest inventory, planning, and conservation, and oversight of timber sales. Broader initiatives may seek to slow or reverse deforestation.

Wildlife and Plants
Wildlife laws govern the potential impact of human activity on wild animals, whether directly on individuals or populations, or indirectly via habitat degradation. Similar laws may operate to protect plant species. Such laws may be enacted entirely to protect biodiversity, or as a means for protecting species deemed important for other reasons. Regulatory efforts may including the creation of special conservation statuses, prohibitions on killing, harming, or disturbing protected species, efforts to induce and support species recovery, establishment of wildlife refuges to support conservation, and prohibitions on trafficking in species or animal parts to combat poaching.

Fish and Game
Fish and game laws regulate the right to pursue and take or kill certain kinds of fish and wild animal (game). Such laws may restrict the days to harvest fish or game, the number of animals caught per person, the species harvested, or the weapons or fishing gear used. Such laws may seek to balance dueling needs for preservation and harvest and to manage both environment and populations of fish and game. Game laws can provide a legal structure to collect license fees and other money which is used to fund conservation efforts as well as to obtain harvest information used in wildlife management practice.

Principles
Environmental law has developed in response to emerging awareness of and concern over issues impacting the entire world. While laws have developed piecemeal and for a variety of reasons, some effort has gone into identifying key concepts and guiding principles common to environmental law as a whole. The principles discussed below are

not an exhaustive list and are not universally recognized or accepted. Nonetheless, they represent important principles for the understanding of environmental law around the world.

Sustainable development
Defined by the United Nations Environment Programme as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs," sustainable development may be considered together with the concepts of "integration" (development cannot be considered in isolation from sustainability) and "interdependence" (social and economic development, and environmental protection, are interdependent). Laws mandating environmental impact assessment and requiring or encouraging development to minimize environmental impacts may be assessed against this principle.

The modern concept of sustainable development was a topic of discussion at the 1972 United Nations Conference on the Human Environment (Stockholm Conference), and the driving force behind the 1983 World Commission on Environment and Development (WCED, or Bruntland Commission). In 1992, the first UN Earth Summit resulted in the Rio Declaration, Principle 3 of which reads: "The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations." Sustainable development has been a core concept of international environmental discussion ever since, including at the World Summit on Sustainable Development (Earth Summit 2002), and the United Nations Conference on Sustainable Development (Earth Summit 2012, or Rio+20).

Equity
Defined by UNEP to include intergenerational equity - "the right of future generations to enjoy a fair level of the common patrimony" - and intragenerational equity - "the right of all people within the current generation to fair access to the current generation's entitlement to the Earth's natural resources" - environmental equity considers the present generation under an obligation to account for long-term impacts of activities, and to act to sustain the global environment and resource base for future generations. Pollution control and resource management laws may be assessed against this principle.

Transboundary Responsibility
Defined in the international law context as an obligation to protect one's own environment, and to prevent damage to neighboring environments, UNEP considers transboundary responsibility at the international level as a potential limitation on the rights of the sovereign state Laws that act to limit externalities imposed upon human health and the environment may be assessed against this principle.

Public Participation and Transparency
Identified as essential conditions for "accountable governments,... industrial concerns," and organizations generally, public participation and transparency are presented by UNEP as requiring "effective protection of the human right to hold and express opinions

and to seek, receive and impart ideas,... a right of access to appropriate, comprehensible and timely information held by governments and industrial concerns on economic and social policies regarding the sustainable use of natural resources and the protection of the environment, without imposing undue financial burdens upon the applicants and with adequate protection of privacy and business confidentiality," and "effective judicial and administrative proceedings." These principles are present in environmental impact assessment, laws requiring publication and access to relevant environmental data, and administrative procedure.

Precautionary Principle

One of the most commonly encountered and controversial principles of environmental law, the Rio Declaration formulated the precautionary principle as follows:

> In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

The principle may play a role in any debate over the need for environmental regulation.

Prevention

The concept of prevention . . . can perhaps better be considered an overarching aim that gives rise to a multitude of legal mechanisms, including prior assessment of environmental harm, licensing or authorization that set out the conditions for operation and the consequences for violation of the conditions, as well as the adoption of strategies and policies. Emission limits and other product or process standards, the use of best available techniques and similar techniques can all be seen as applications of the concept of prevention.

Polluter Pays Principle

The polluter pays principle stands for the idea that "the environmental costs of economic activities, including the cost of preventing potential harm, should be internalized rather than imposed upon society at large." All issues related to responsibility for cost for environmental remediation and compliance with pollution control regulations involve this principle.

Theory

Environmental law is a continuing source of controversy. Debates over the necessity, fairness, and cost of environmental regulation are ongoing, as well as regarding the appropriateness of regulations vs. market solutions to achieve even agreed-upon ends.

Allegations of scientific uncertainty fuel the ongoing debate over greenhouse gas regulation, and are a major factor in debates over whether to ban particular pesticides In cases where the science is well-settled, it is not unusual to find that corporations intentionally hide or distort the facts, or sow confusion.

It is very common for regulated industry to argue against environmental regulation on the basis of cost. Difficulties arise in performing cost-benefit analysis of environmental issues. It is difficult to quantify the value of an environmental value such as a healthy ecosystem, clean air, or species diversity. Many environmentalists' response to pitting economy vs. ecology is summed up by former Senator and founder of Earth Day Gaylord Nelson, "The economy is a wholly owned subsidiary of the environment, not the other way around." Furthermore, environmental issues are seen by many as having an ethical or moral dimension, which would transcend financial cost. Even so, there are some efforts underway to systemically recognize environmental costs and assets, and account for them properly in economic terms.

While affected industries spark controversy in fighting regulation, there are also many environmentalists and public interest groups who believe that current regulations are inadequate, and advocate for stronger protection. Environmental law conferences - such as the annual Public Interest Environmental Law Conference in Eugene, Oregon - typically have this focus, also connecting environmental law with class, race, and other issues.

An additional debate is to what extent environmental laws are fair to all regulated parties. For instance, researchers Preston Teeter and Jorgen Sandberg highlight how smaller organizations can often incur disproportionately larger costs as a result of environmental regulations, which can ultimately create an additional barrier to entry for new firms, thus stifling competition and innovation.

U.S. Department of Labor

The Department of Labor (DOL) administers and enforces more than 180 federal laws. These mandates and the regulations that implement them cover many workplace activities for about 10 million employers and 125 million workers.

Following is a brief description of many of DOL's principal statutes most commonly applicable to businesses, job seekers, workers, retirees, contractors and grantees. This brief summary is intended to acquaint you with the major labor laws and not to offer a detailed exposition. For authoritative information and references to fuller descriptions on these laws, you should consult the statutes and regulations themselves.

Rulemaking and Regulations provides brief descriptions of and links to various sources of information on DOL's rulemaking activities and regulations.

Wages & Hours

The Fair Labor Standards Act (FLSA) prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by the Wage and Hour Division. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. For nonagricultural operations, it restricts the hours that children under age 16 can work and forbids the employment of children under age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the

employment of children under age 16 during school hours and in certain jobs deemed too dangerous.

The Wage and Hour Division also enforces the labor standards provisions of the Immigration and Nationality Act (INA) that apply to aliens authorized to work in the U.S. under certain nonimmigrant visa programs (H-1B, H-1B1, H-1C, H2A).

Workplace Safety & Health
The Occupational Safety and Health (OSH) Act is administered by the Occupational Safety and Health Administration (OSHA). Safety and health conditions in most private industries are regulated by OSHA or OSHA-approved state programs, which also cover public sector employers. Employers covered by the OSH Act must comply with the regulations and the safety and health standards promulgated by OSHA. Employers also have a general duty under the OSH Act to provide their employees with work and a workplace free from recognized, serious hazards. OSHA enforces the Act through workplace inspections and investigations. Compliance assistance and other cooperative programs are also available.

Workers' Compensation
If you worked for a private company or a state government, you should contact the workers' compensation program for the state in which you lived or worked. The U.S. Department of Labor, Office of Workers' Compensation Programs, does not have a role in the administration or oversight of state workers' compensation programs.

The Longshore and Harbor Workers' Compensation Act (LHWCA), administered by The Office of Workers Compensation Programs (OWCP), provides for compensation and medical care to certain maritime employees (including a longshore worker or other person in longshore operations, and any harbor worker, including a ship repairer, shipbuilder, and shipbreaker) and to qualified dependent survivors of such employees who are disabled or die due to injuries that occur on the navigable waters of the United States, or in adjoining areas customarily used in loading, unloading, repairing or building a vessel.

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) is a compensation program that provides a lump-sum payment of $150,000 and prospective medical benefits to employees (or certain of their survivors) of the Department of Energy and its contractors and subcontractors as a result of cancer caused by exposure to radiation, or certain illnesses caused by exposure to beryllium or silica incurred in the performance of duty, as well as for payment of a lump-sum of $50,000 and prospective medical benefits to individuals (or certain of their survivors) determined by the Department of Justice to be eligible for compensation as uranium workers under section 5 of the Radiation Exposure Compensation Act (RECA).

The Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq., establishes a comprehensive and exclusive workers' compensation program which pays compensation for the disability or death of a federal employee resulting from personal

injury sustained while in the performance of duty. The FECA, administered by OWCP, provides benefits for wage loss compensation for total or partial disability, schedule awards for permanent loss or loss of use of specified members of the body, related medical costs, and vocational rehabilitation.

The Black Lung Benefits Act (BLBA) provides monthly cash payments and medical benefits to coal miners totally disabled from pneumoconiosis ("black lung disease") arising from their employment in the nation's coal mines. The statute also provides monthly benefits to a deceased miner's survivors if the miner's death was due to black lung disease.

Employee Benefit Security
The Employee Retirement Income Security Act (ERISA) regulates employers who offer pension or welfare benefit plans for their employees. Title I of ERISA is administered by the Employee Benefits Security Administration (EBSA) (formerly the Pension and Welfare Benefits Administration) and imposes a wide range of fiduciary, disclosure and reporting requirements on fiduciaries of pension and welfare benefit plans and on others having dealings with these plans. These provisions preempt many similar state laws. Under Title IV, certain employers and plan administrators must fund an insurance system to protect certain kinds of retirement benefits, with premiums paid to the federal government's Pension Benefit Guaranty Corporation (PBGC). EBSA also administers reporting requirements for continuation of health-care provisions, required under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA) and the health care portability requirements on group plans under the Health Insurance Portability and Accountability Act (HIPAA).

Unions & Their Members
The Labor-Management Reporting and Disclosure Act (LMRDA) of 1959 (also known as the Landrum-Griffin Act) deals with the relationship between a union and its members. It protects union funds and promotes union democracy by requiring labor organizations to file annual financial reports, by requiring union officials, employers, and labor consultants to file reports regarding certain labor relations practices, and by establishing standards for the election of union officers. The act is administered by the Office of Labor-Management Standards (OLMS).

Employee Protection
Most labor and public safety laws and many environmental laws mandate whistleblower protections for employees who complain about violations of the law by their employers. Remedies can include job reinstatement and payment of back wages. OSHA enforces the whistleblower protections in most laws.

Uniformed Services Employment and Reemployment Rights Act
Certain persons who serve in the armed forces have a right to reemployment with the employer they were with when they entered service. This includes those called up from the reserves or National Guard. These rights are administered by the Veterans' Employment and Training Service (VETS).

Employee Polygraph Protection Act
This law bars most employers from using lie detectors on employees, but permits polygraph tests only in limited circumstances. It is administered by the Wage and Hour Division.

Garnishment of Wages
Garnishment of employee wages by employers is regulated under the Consumer Credit Protection Act (CCPA) which is administered by the Wage and Hour Division.

The Family and Medical Leave Act
Administered by the Wage and Hour Division, the Family and Medical Leave Act (FMLA) requires employers of 50 or more employees to give up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee or a spouse, child or parent.

Veterans' Preference
Veterans and other eligible persons have special employment rights with the federal government. They are provided preference in initial hiring and protection in reductions in force. Claims of violation of these rights are investigated by the Veterans' Employment and Training Service (VETS).

Government Contracts, Grants, or Financial Aid
Recipients of government contracts, grants or financial aid are subject to wage, hour, benefits, and safety and health standards under:

> The Davis-Bacon Act, which requires payment of prevailing wages and benefits to employees of contractors engaged in federal government construction projects;
>
> The McNamara-O'Hara Service Contract Act, which sets wage rates and other labor standards for employees of contractors furnishing services to the federal government;
>
> The Walsh-Healey Public Contracts Act, which requires payment of minimum wages and other labor standards by contractors providing materials and supplies to the federal government.

Administration and enforcement of these laws are by The Wage and Hour Division. The Office of Federal Contract Compliance Programs (OFCCP) administers and enforces three federal contract-based civil rights laws that require most federal contractors and subcontractors, as well as federally assisted construction contractors, to provide equal employment opportunity. The Office of the Assistant Secretary for Administration and Management's (OASAM) Civil Rights Center administers and enforces several federal assistance based civil rights laws requiring recipients of federal financial assistance from Department of Labor to provide equal opportunity.

Migrant & Seasonal Agricultural Workers
The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) regulates the hiring and employment activities of agricultural employers, farm labor contractors, and associations using migrant and seasonal agricultural workers. The Act prescribes wage protections, housing and transportation safety standards, farm labor contractor registration requirements, and disclosure requirements. The Wage and Hour Division administers this law.

The Fair Labor Standards Act (FLSA) exempts agricultural workers from overtime premium pay, but requires the payment of the minimum wage to workers employed on larger farms (farms employing more than approximately seven full-time workers. The Act has special child-labor regulations that apply to agricultural employment; children under 16 are forbidden to work during school hours and in certain jobs deemed too dangerous. Children employed on their families' farms are exempt from these regulations. The Wage and Hour Division administers this law. OSHA also has special safety and health standards that may apply to agricultural operations.

The Immigration and Nationality Act (INA) requires employers who want to use foreign temporary workers on H-2A visas to get a labor certificate from the Employment and Training Administration certifying that there are not sufficient, able, willing and qualified U.S. workers available to do the work. The labor standards protections of the H-2A program are enforced by The Wage and Hour Division.

Mine Safety & Health
The Federal Mine Safety and Health Act of 1977 (Mine Act) covers all people who work on mine property. The Mine Safety and Health Administration (MSHA) administers this Act.

The Mine Act holds mine operators responsible for the safety and health of miners; provides for the setting of mandatory safety and health standards, mandates miners' training requirements; prescribes penalties for violations; and enables inspectors to close dangerous mines. The safety and health standards address numerous hazards including roof falls, flammable and explosive gases, fire, electricity, equipment rollovers and maintenance, airborne contaminants, noise, and respirable dust. MSHA enforces safety and health requirements at more than 13,000 mines, investigates mine accidents, and offers mine operators training, technical and compliance assistance.

Construction
Several agencies administer programs related solely to the construction industry. OSHA has special occupational safety and health standards for construction; The Wage and Hour Division, under Davis-Bacon and related acts, requires payment of prevailing wages and benefits; The Office of Federal Contract Compliance Programs enforces Executive Order 11246, which requires federal construction contractors and subcontractors, as well as federally assisted construction contractors, to provide equal employment opportunity; the anti-kickback section of the Copeland Act precludes a federal contractor from inducing any employee to sacrifice any part of the compensation required.

Transportation
Most laws with labor provisions regulating the transportation industry are administered by agencies outside the Department of Labor. However, longshoring and maritime industry safety and health standards are issued and enforced by OSHA. The Longshoring and Harbor Workers' Compensation Act (LHWCA), requires employers to assure that workers' compensation is funded and available to eligible employees. In addition, the rights of employees in the mass transit industry are protected when federal funds are used to acquire, improve, or operate a transit system. Under the Federal Transit law, the Department of Labor is responsible for approving employee protection arrangements before the department of Transportation can release funds to grantees.

Plant Closings & Layoffs
Such occurrences may be subject to the Worker Adjustment and Retraining Notification Act (WARN). WARN offers employees early warning of impending layoffs or plant closings. The Employment and Training Administration (ETA) provides information to the public on WARN, though neither ETA nor the Department of Labor has administrative responsibility for the statute, which is enforced through private action in the federal courts.

Posters
Some of the statutes and regulations enforced by the U.S. Department of Labor (DOL) require that notices be provided to employees and/or posted in the workplace. DOL provides free electronic and printed copies of these required posters.

The elaws Poster Advisor can be used to determine which poster(s) employers are required to display at their place(s) of business. Posters, available in English and other languages, may be downloaded and printed directly from the Advisor. If you already know which poster(s) you are required to display, see below to download and print the appropriate poster(s) free of charge.

Please note that the elaws Poster Advisor provides information on federal DOL poster requirements.

Related Agencies
Other federal agencies besides the Department of Labor

Statutes that ensure non-discrimination in employment are generally enforced by the Equal Employment Opportunity Commission (EEOC).
The Taft-Hartley Act regulates a wide range of employer-employee conduct and is administered by the National Labor Relations Board (NLRB).

Food and Drug
The Food and Drug Administration (FDA or USFDA) is a federal agency of the United States Department of Health and Human Services, one of the United States federal executive departments. The FDA is responsible for protecting and promoting public health through the control and supervision of food safety, tobacco products, dietary supplements, prescription and over-the-counter pharmaceutical drugs (medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, electromagnetic radiation emitting devices (ERED), cosmetics, animal foods & feed and veterinary products. As of 2017, 3/4th of the FDA budget (approximately $700 million) is funded by the pharmaceutical companies due to the Prescription Drug User Fee Act.

The FDA was empowered by the United States Congress to enforce the Federal Food, Drug, and Cosmetic Act, which serves as the primary focus for the Agency; the FDA also enforces other laws, notably Section 361 of the Public Health Service Act and associated regulations, many of which are not directly related to food or drugs. These include regulating lasers, cellular phones, condoms and control of disease on products ranging from certain household pets to sperm donation for assisted reproduction.

The FDA is led by the Commissioner of Food and Drugs, appointed by the President with the advice and consent of the Senate. The Commissioner reports to the Secretary of Health and Human Services. Scott Gottlieb, M.D. is the current commissioner, who took over in May 2017.

U. S. Consumer Protection
In the United States a variety of laws at both the federal and state levels regulate consumer affairs. Among them are the Federal Food, Drug, and Cosmetic Act, Fair Debt Collection Practices Act, the Fair Credit Reporting Act, Truth in Lending Act, Fair Credit Billing Act, and the Gramm–Leach–Bliley Act. Federal consumer protection laws are mainly enforced by the Federal Trade Commission, the Consumer Financial Protection Bureau, the Food and Drug Administration, and the U.S. Department of Justice.

At the state level, many states have adopted the Uniform Deceptive Trade Practices Act including, but not limited to, Delaware, Illinois, Maine, and Nebraska. The deceptive trade practices prohibited by the Uniform Act can be roughly subdivided into conduct involving either a) unfair or fraudulent business practice and b) untrue or misleading advertising. The Uniform Act contains a private remedy with attorney's fees for

prevailing parties where the losing party "willfully engaged in the trade practice knowing it to be deceptive". Uniform Act §3(b). Missouri has a similar statute called the Merchandising Practices Act. This statute allows local prosecutors or the Attorney General to press charges against people who knowingly use deceptive business practices in a consumer transaction and authorizes consumers to hire a private attorney to bring an action seeking their actual damages, punitive damages, and attorney's fees.

Also, the majority of states have a Department of Consumer Affairs devoted to regulating certain industries and protecting consumers who use goods and services from those industries. For example, in California, the California Department of Consumer Affairs regulates about 2.3 million professionals in over 230 different professions, through its forty regulatory entities. In addition, California encourages its consumers to act as private attorneys general through the liberal provisions of its Consumers Legal Remedies Act.

California has the strongest consumer protection laws of any US state, partly because of rigorous advocacy and lobbying by groups such as Utility Consumers' Action Network, Consumer Federation of California, and Privacy Rights Clearinghouse. For example, California provides for "cooling off" periods giving consumers the right to cancel contracts within a certain time period for several specified types of transactions, such as home secured transactions, and warranty and repair services contracts.

Other states have been the leaders in specific aspects of consumer protection. For example, Florida, Delaware, and Minnesota have legislated requirements that contracts be written at reasonable readability levels as a large proportion of contracts cannot be understood by most consumers who sign them.

Uniform Commercial Code (UCC)

The Uniform Commercial Code (UCC), first published in 1952, is one of a number of uniform acts that have been put into law with the goal of harmonizing the law of sales and other commercial transactions across the United States of America (U.S.) through UCC adoption by all 50 states, the District of Columbia, and the U.S. territories.

While largely successful at achieving this ambitious goal, some U.S. jurisdictions (e.g., Louisiana and Puerto Rico) have not adopted all of the articles contained in the UCC, while other U.S. jurisdictions (e.g., American Samoa) have not adopted any articles in the UCC. Also, adoption of the UCC often varies from one U.S. jurisdiction to another. Sometimes this variation is due to alternative language found in the official UCC itself. At other times, adoption of different revisions to the official UCC contributes to further variation. Additionally, some jurisdictions deviate from the official UCC by tailoring the language to meet their unique needs and preferences. Lastly, even identical language adopted by any two U.S. jurisdictions may nonetheless be subject to different statutory interpretation by each jurisdiction's courts.

The 1952 Uniform Commercial Code was released after ten years of development, and revisions were made to the Code from 1952 to 1999. The Uniform Commercial Code deals with the following subjects under consecutively numbered Articles:

ART.	TITLE	CONTENTS
1	**General Provisions**	Definitions, rules of interpretation
2	**Sales**	Sales of goods
2A	**Leases**	Leases of goods
3	**Negotiable Instruments**	Promissory notes and drafts (commercial paper)
4	**Bank Deposits and Collections**	Banks and banking, check collection process
4A	**Funds Transfers**	Transfers of money between banks
5	**Letters of Credit**	Transactions involving letters of credit
6	**Bulk Transfers and Bulk Sales**	Auctions and liquidations of assets
7	**Warehouse Receipts, Bills of Lading and Other Documents of Title**	Storage and bailment of goods
8	**Investment Securities**	Securities and financial assets
9	**Secured Transactions**	Transactions secured by security interests

In 2003, amendments to Article 2 modernizing many aspects (as well as changes to Article 2A and Article 7) were proposed by the NCCUSL and the ALI. Because no states adopted the amendments and, due to industry opposition, none were likely to, in 2011

the sponsors withdrew the amendments. As a result, the official text of the UCC now corresponds to the law that most states have enacted.

Article 2 Deals with Sales, and Article 2A Deals with Leases.
Contract formation
Firm offers (offers by USAUS Inc to buy or sell goods and promising to keep the offer open for a period of time) are valid without consideration if signed by the offeror, and are irrevocable for the time stated on the Purchase Order(but no longer than 3 months), or, if no time is stated, for a reasonable time.

Offer to buy goods for "prompt shipment" invites acceptance by either prompt shipment or a prompt promise to ship. Therefore, this offer is not strictly unilateral. However, this "acceptance by performance" does not even have to be by conforming goods, (for example, incomplete sets).

Consideration—modifications without consideration may be acceptable in a contract for the sale of goods.

Failure to state price—In a contract for the sale of goods, the failure to state a price will not prevent the formation of a contract if the parties' original intent was to form a contract. A reasonable price will be determined by the court.

Assignments—a requirements contract can be assigned, provided the quantity required by the assignee is not unreasonably disproportionate to original quantity.

Contract repudiation and breach

Nonconforming goods—If non-conforming goods are sent with a note of accommodation, such tender is construed as a counteroffer, and if accepted, forms a new contract and binds buyer at previous contract price. If seller refuses to conform and buyer does not accept, the buyer must return all non-conforming goods at sellers expense within thirty days of receipt.

Perfect tender—The buyer however does have a right of "perfect tender" and can accept all, reject all, or accept conforming goods and reject the rest; within a reasonable time after delivery but before acceptance, he must notify the seller of the rejection. If the buyer does not give a specific reason (defect), he cannot rely on the reason later, in legal proceedings. (akin to the cure before cover rationale). Also, the contract is not breached per se if the seller delivered the non-conforming goods, however offensive, before the date of performance has hit.

"Reasonable time/good faith", four weeks minimum lead time, standard—Such standard is required from a party to a contract indefinite as to time, or made indefinite by waiver of original provisions.

Requirements/Output contracts—The UCC provides protection against disproportionate demands, but must meet the "good faith" requirement.

Reasonable grounds for insecurity—In a situation with a threat of non-performance, the other part may suspend its own performance and demand assurances in writing. If

assurance not provided "within a reasonable time not exceeding 30 days," the contract is repudiated.

Battle of forms—New terms will be incorporated into the agreement unless:

1) offer limited to its own terms,

2) materially alter original terms (limit liability etc.),

3) first party objects to new terms in a timely manner, or first party has already objected to new terms.

Look at what the item is to determine whether the new terms "materially alter" the original offer. (delay in delivery of nails not the same as for fish).

Battle of forms—A written confirmation of an offer sent within a reasonable time operates as an acceptance even though it states terms additional terms to or different from those offered, unless acceptance is expressly made conditional to the additions.

Statute of frauds as applicable to the sale of goods—The actual contract does not need to be in writing. Just some note or memo must be in writing and signed. However, the UCC exception to the signature requirement is where written confirmation is received and not objected to within 10 days.

Cure/cover—Buyer must give seller time to cure the defective shipment before seeking cover

FOB place of business—The seller assumes risk of loss until goods are placed on a carrier.

FOB destination: seller risks loss until shipment arrives at destination. If the contract leaves out the delivery place, it is the seller's place of business.

Risk of loss—Equitable conversion does not apply. In sale of specific goods, the risk of loss lies with the seller until tender. Generally, the seller bears risk of loss until the buyer takes physical possession of the goods (the opposite of realty)

Reclamation—Successful reclamation of goods excludes all other remedies with respect to the goods. A seller can reclaim goods upon demand within 20 days after buyer receives them if the seller discovers that the buyer received the goods while insolvent.

Rightfully rejected goods—A merchant buyer may follow reasonable instructions of the seller to reject the goods. If no such instructions are given, the buyer make a reasonable effort to sell them, and the buyer/bailee entitled to 10% of the gross proceeds.

Implied warranty of fitness—Implied warranty of fitness arises when the seller knows the buyer is relying upon the seller's expertise in choosing goods. Implied warranty of merchantability: every sale of goods fit for ordinary purposes. Express warranties: arise from any statement of fact of promise.

UCC damages for repudiating/breaching seller—Difference between 1) the market price when the buyer learned of breach and the 2) contract price 3) plus incidental

damages. An aggrieved seller simply suing for the contract price is economically inefficient.

Specially manufactured goods—Specially manufactured goods are exempt from statute of frauds where manufacturer has made a "substantial beginning" or "commitments for the procurement" of supplies.

Section 2-207: Battle of the Forms

One of the most confusing and fiercely litigated sections of the UCC is Section 2-207, which Professor Grant Gilmore called "arguably the greatest statutory mess of all time." It governs a "battle of the forms" as to whose boilerplate terms, those of the offeror or the offeree, will survive a commercial transaction where multiple forms with varying terms are exchanged. This problem frequently arises when parties to a commercial transaction exchange routine documents like requests for proposals, invoices, purchase orders, and order confirmations, all of which may contain conflicting boilerplate provisions.

The first step in the analysis is to determine whether the UCC or the common law governs the transaction. If the UCC governs, courts will usually try to find which form constitutes the offer. Next, offeree's acceptance forms bearing the different terms is examined. One should note whether the acceptance is expressly conditional on its own terms. If it is expressly conditional, it is a counteroffer, not an acceptance. If performance is accepted after the counteroffer, even without express acceptance, under 2-207(3), a contract will exist under only those terms on which the parties agree, together with UCC gap-fillers.

If the acceptance form does not expressly limit acceptance to its own terms, and both parties are merchants, offeror's acceptance of offeree's performance, though offeree's forms contain additional or different terms, forms a contract. At this point, if offeree's terms cannot coexist with offeror's terms, both terms are "knocked out" and UCC gap-fillers step in. If offeree's terms are simply additional, they will be considered part of the contract unless (a) the offeror expressly limits acceptance to the terms of the original offer, (b) the new terms materially alter the original offer or (c) notification of objection to the new terms has already been given or is given within a reasonable time after they are promulgated by the offeree.

Because of the massive confusion engendered by Section 2-207, a revised version was promulgated in 2003, but the revision has never been enacted by any state.

Article 9

Article 9 governs security interests in personal property as collateral to secure a debt. A creditor with a security interest is called a secured party.

Fundamental concepts under Article 9 include how a security interest is created (called attachment); how to give notice of a security interest to the public, which makes the security interest enforceable against others who may claim an interest in the collateral (called perfection); when multiple claims to the same collateral exist, determining which interests prevail over others (called priority); and what remedies a secured party has if the debtor defaults in payment or performance of the secured obligation.

Article 9 does not govern security interests in real property, except fixtures to real property. Security interests in real property include mortgages, deeds of trusts, and installment land contracts. There may be significant legal issues around security interests in Bitcoin.

Bankruptcy

OVERVIEW

Types of Bankruptcies

Chapter 7. In a Chapter 7 bankruptcy, all of the debtor's nonexempt property is liquidated and the proceeds distributed to creditors. Individual debtors receive a discharge of personal liability for pre-petition debts, subject to exceptions in §523, whether or not a proof of claim was filed or the debt was allowed under §502.727(b).

Chapter 13. Under Chapter 13, eligible individuals pay part or all of their debts over a three to five year period. The discharge in Chapter 13 applies to debts provided for in the plan or disallowed under §502. A "hardship" discharge under §1328(b) is subject to all of the exceptions in §523. A discharge under §1328(a) for a debtor who completes all payments under the plan is subject to a few of the exceptions in §523, but not the exceptions in §523(a)(1) and (7) for taxes and penalties.

Chapter 12. Under Chapter 12, eligible farmers pay part or all of their debts over a three to five year period. The debtor receives a discharge from debts provided for in the plan or disallowed under §502, subject to the exceptions in §523, either upon completion of payments under the plan or upon receiving a "hardship" discharge. §1228(a) and (b).

Chapter 11. In Chapter 11, the debtor proposes a reorganization plan and seeks approval of creditors. Confirmation of the plan discharges the debtor from debts arising prior to confirmation, except as provided in the plan or confirmation order, subject to the exceptions in §523.1141(d).

Plain Language Practice Tip! How to remember what the categories mean:

- ***Chapter 7*** *They take your stuff and discharge most debts.*
- ***Chapter 13*** *You keep your stuff but must pay payments for 3-5 years when you get a discharge. (Only for individuals and there are dollar limitations on debt.)*
- ***Chapter 11*** *You keep your stuff and must make payments Taxes must be paid within 5 years. Used by individuals in big debt and companies. (Very high legal fees and other costs.)*
- ***Chapter 12*** *Farmers. Enough said.*

The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005. On April 20, 2005, BAPCPA became law, making fundamental changes to our consumer bankruptcy system. Most of BAPCPA's provisions became effective 180 days after the bill was signed into law, or October 17, 2005. The BAPCPA provides that:

- Debtors filing under Chapters 7, 11, 12, and 13 of the Bankruptcy Code must file all applicable federal, state, and local tax returns that become due after a case commences. Failure to file tax returns timely or obtain an extension can cause a bankruptcy petition to be converted to another Chapter or dismissed. In Chapter 13 cases, the debtor must file all required tax returns for tax periods ending within 4 years of filing the bankruptcy petition.
- The confirmation of a plan under Chapter 11 does not discharge a corporate debtor from tax debts for which the debtor filed a fraudulent return or willfully attempted to evade or defeat tax.
- In Chapter 11 cases of individuals, wages and income from self-employment earned during the bankruptcy case are property of the estate. Income that is property of the estate should be reported on the bankruptcy estate's tax return.
- Withheld taxes, taxes for which a return was not filed, taxes for which a return was untimely filed within 2 years of the bankruptcy, and taxes that the taxpayer attempted to evade or defeat are now excepted from the Chapter 13 discharge.

Modern Competition Law

While the development of competition law stalled in Europe during the late 19th century, in 1889 Canada enacted what is considered the first competition statute of modern times. The Act for the Prevention and Suppression of Combinations formed in restraint of Trade was passed one year before the United States enacted the most famous legal statute on competition law, the Sherman Act of 1890. It was named after Senator John Sherman who argued that the Act "does not announce a new principle of law, but applies old and well recognised principles of common law."

United States antitrust

The Sherman Act of 1890 attempted to outlaw the restriction of competition by large companies, who co-operated with rivals to fix outputs, prices and market shares, initially through pools and later through trusts. Trusts first appeared in the US railroads, where the capital requirement of railroad construction precluded competitive services in then scarcely settled territories. This trust allowed railroads to discriminate on rates imposed and services provided to consumers and businesses and to destroy potential competitors. Different trusts could be dominant in different industries. The Standard Oil Company trust in the 1880s controlled a number of markets, including the market in fuel oil, lead and whiskey. Vast numbers of citizens became sufficiently aware and publicly concerned about how the trusts negatively impacted them that the Act became a priority for both major parties. A primary concern of this act is that competitive markets themselves should provide the primary regulation of prices, outputs, interests and

profits. Instead, the Act outlawed anticompetitive practices, codifying the common law restraint of trade doctrine. Prof Rudolph Peritz has argued that competition law in the United States has evolved around two sometimes conflicting concepts of competition: first that of individual liberty, free of government intervention, and second a fair competitive environment free of excessive economic power. Since the enactment of the Sherman Act enforcement of competition law has been based on various economic theories adopted by Government.

Section 1 of the Sherman Act declared illegal "every contract, in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations." Section 2 prohibits monopolies, or attempts and conspiracies to monopolize. Following the enactment in 1890 US court applies these principles to business and markets. Courts applied the Act without consistent economic analysis until 1914, when it was complemented by the Clayton Act which specifically prohibited exclusive dealing agreements, particularly tying agreements and interlocking directorates, and mergers achieved by purchasing stock. From 1915 onwards the rule of reason analysis was frequently applied by courts to competition cases. However, the period was characterized by the lack of competition law enforcement. From 1936 to 1972 courts' application of anti-trust law was dominated by the structure-conduct-performance paradigm of the Harvard School. From 1973 to 1991, the enforcement of anti-trust law was based on efficiency explanations as the Chicago School became dominant, and through legal writings such as Judge Robert Bork's book The Antitrust Paradox. Since 1992 game theory has frequently been used in anti-trust cases.

Dominance and Monopoly

When firms hold large market shares, consumers risk paying higher prices and getting lower quality products than compared to competitive markets. However, the existence of a very high market share does not always mean consumers are paying excessive prices since the threat of new entrants to the market can restrain a high-market-share firm's price increases. Competition law does not make merely having a monopoly illegal, but rather abusing the power that a monopoly may confer, for instance through exclusionary practices.

First it is necessary to determine whether a firm is dominant, or whether it behaves "to an appreciable extent independently of its competitors, customers and ultimately of its consumer." Under EU law, very large market shares raise a presumption that a firm is dominant, which may be rebuttable. If a firm has a dominant position, then there is "a special responsibility not to allow its conduct to impair competition on the common market."Similarly as with collusive conduct, market shares are determined with reference to the particular market in which the firm and product in question is sold. Then although the lists are seldom closed, certain categories of abusive conduct are usually prohibited under the country's legislation. For instance, limiting production at a shipping port by refusing to raise expenditure and update technology could be abusive. Tying one product into the sale of another can be considered abuse too, being restrictive of consumer choice and depriving competitors of outlets. This was the alleged case in Microsoft v. Commission leading to an eventual fine of million for including its Windows Media Player with the Microsoft Windows platform. A refusal to supply a facility which is essential for all businesses attempting to compete to use can constitute an abuse. One

example was in a case involving a medical company named Commercial Solvents When it set up its own rival in the tuberculosis drugs market, Commercial Solvents were forced to continue supplying a company named Zoja with the raw materials for the drug. Zoja was the only market competitor, so without the court forcing supply, all competition would have been eliminated.

Forms of abuse relating directly to pricing include price exploitation. It is difficult to prove at what point a dominant firm's prices become "exploitative" and this category of abuse is rarely found. In one case however, a French funeral service was found to have demanded exploitative prices, and this was justified on the basis that prices of funeral services outside the region could be compared. A more tricky issue is predatory pricing. This is the practice of dropping prices of a product so much that one's smaller competitors cannot cover their costs and fall out of business. The Chicago School (economics) considers predatory pricing to be unlikely. However, in France Telecom SA v. Commission a broadband internet company was forced to pay $13.9 million for dropping its prices below its own production costs. It had "no interest in applying such prices except that of eliminating competitors" and was being cross-subsidized to capture the lion's share of a booming market. One last category of pricing abuse is price discrimination. An example of this could be offering rebates to industrial customers who export your company's sugar, but not to customers who are selling their goods in the same market as you are in.

Mergers and Acquisitions

A merger or acquisition involves, from a competition law perspective, the concentration of economic power in the hands of fewer than before. This usually means that one firm buys out the shares of another. The reasons for oversight of economic concentrations by the state are the same as the reasons to restrict firms who abuse a position of dominance, only that regulation of mergers and acquisitions attempts to deal with the problem before it arises, ex ante prevention of market dominance. In the United States merger regulation began under the Clayton Act, and in the European Union, under the Merger Regulation 139/2004 (known as the "ECMR").Competition law requires that firms proposing to merge gain authorization from the relevant government authority. The theory behind mergers is that transaction costs can be reduced compared to operating on an open market through bilateral contracts. Concentrations can increase economies of scale and scope. However often firms take advantage of their increase in market power, their increased market share and decreased number of competitors, which can adversely affect the deal that consumers get. Merger control is about predicting what the market might be like, not knowing and making a judgment. Hence the central provision under EU law asks whether a concentration would, if it went ahead, "significantly impede effective competition... in particular as a result of the creation or strengthening off a dominant position..." and the corresponding provision under US antitrust states similarly,

No person shall acquire, directly or indirectly, the whole or any part of the stock or other share capital... of the assets of one or more persons engaged in commerce or in any activity affecting commerce, where... the effect of such acquisition, of such stocks or

assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

What amounts to a substantial lessening of, or significant impediment to competition is usually answered through empirical study. The market shares of the merging companies can be assessed and added, although this kind of analysis only gives rise to presumptions, not conclusions. The Herfindahl-Hirschman Index is used to calculate the "density" of the market, or what concentration exists. Aside from the maths, it is important to consider the product in question and the rate of technical innovation in the market. A further problem of collective dominance, or oligopoly through "economic links"] can arise, whereby the new market becomes more conducive to collusion. It is relevant how transparent a market is, because a more concentrated structure could mean firms can coordinate their behavior more easily, whether firms can deploy deterrents and whether firms are safe from a reaction by their competitors and consumers. The entry of new firms to the market, and any barriers that they might encounter should be considered. If firms are shown to be creating an uncompetitive concentration, in the US they can still argue that they create efficiencies enough to outweigh any detriment, and similar reference to "technical and economic progress" is mentioned in Art. 2 of the ECMR. Another defense might be that a firm which is being taken over is about to fail or go insolvent, and taking it over leaves a no less competitive state than what would happen anyway. Mergers vertically in the market are rarely of concern, although in AOL/Time Warner the European Commission required that a joint venture with a competitor Bertelsmann be ceased beforehand. The EU authorities have also focused lately on the effect of conglomerate mergers, where companies acquire a large portfolio of related products, though without necessarily dominant shares in any individual market.

Intellectual Property, Innovation and Competition

Competition law has become increasingly intertwined with intellectual property, such as copyright, trademarks, patents, industrial design rights and in some jurisdictions trade secrets. It is believed that promotion of innovation through enforcement of intellectual property rights may promote as well as limit competitiveness. The question rests on whether it is legal to acquire monopoly through accumulation of intellectual property rights. In which case, the judgment needs to decide between giving preference to intellectual property rights or to competitiveness:

> Should antitrust laws accord special treatment to intellectual property.
>
> Should intellectual rights be revoked or not granted when antitrust laws are violated.

Concerns also arise over anti-competitive effects and consequences due to:

> Intellectual properties that are collaboratively designed with consequence of violating antitrust laws (intentionally or otherwise).
>
> The further effects on competition when such properties are accepted into industry standards.

Cross-Licensing of Intellectual Property.

Bundling of intellectual property rights to long term business transactions or agreements to extend the market exclusiveness of intellectual property rights beyond their statutory duration.

Trade secrets, if they remain a secret, having an eternal length of life.

Some scholars suggest that a prize instead of patent would solve the problem of deadweight loss, when innovators got their reward from the prize, provided by the government or non-profit organization, rather than directly selling to the market, see Millennium Prize Problems. However innovators may accept the prize only when it is at least as much as how much they earn from patent, which is a question difficult to determine.

United States Criminal Law

The federal government and all the states rely on the following:

Common law

Common law is law developed by judges through legal opinions, as opposed to statutes adopted through the legislative process or regulations issued by the executive branch. A common law crime is thus a crime which was originally defined by judges.

Common law crimes no longer exist at the federal level, because of the U.S. Supreme Court's decision in *United States v. Hudson and Goodwin*, 11 U.S. 32 (1812). The validity of common law crimes varies at the state level. Although most states have abolished common law crimes, some have enacted "reception" statutes recognizing common law crimes when no similar statutory crime exists.

Statutes

All 50 states have their own penal codes. Therefore, for any particular crime somewhere, it would be necessary to look it up in that jurisdiction. However, statutes derive from the common law. For example, if a state's murder statute does not define "human being," that state's courts will rely on the common-law definition.

State vs. Federal

The states, since they possess the police power, have the most general power to pass criminal laws in the United States. The federal government, since it can only exercise those powers granted to it by the Constitution, can only pass criminal laws which are related to the powers granted to Congress. For example, drug crimes, which comprise a large percentage of federal criminal cases, are subject to federal control because drugs are a commodity for which there is an interstate market, thus making controlled substances subject to regulation by Congress in the Controlled Substances Act which was passed under the authority of the Commerce Clause. Gonzales v. Raich affirmed Congress's power to regulate drug possession under the Controlled Substances Act under the powers granted to it by the Commerce Clause.

Theories of punishment
An overarching concept in American criminal law is that people may not be punished for committing merely immoral or unethical acts. They can only be punished if that act has been announced beforehand as a crime.

Burden of proof
In the United States, the adversarial system is used. The prosecution must prove each element of the alleged crime beyond a reasonable doubt for conviction.

Elements
Crimes can generally be reduced to actus reus elements and mens rea elements. Actus reus elements are elements which describe conduct. Mens rea elements are elements which identify a particular mental state.

Taxation in the United States

The United States of America is a federal republic with separate state and local governments. Taxes are imposed in the United States at each of these levels. These include taxes on income, payroll, property, sales, capital gains, dividends, imports, estates and gifts, as well as various fees. In 2010 taxes collected by federal, state and municipal governments amounted to 24.8% of GDP.

In the OECD, only Chile and Mexico taxed less as a share of GDP. However, taxes fall much more heavily on labor income than on capital income, and investments in higher education are taxed particularly heavily.

Taxes are imposed on net income of individuals and corporations by the federal, most state, and some local governments. Citizens and residents are taxed on worldwide income and allowed a credit for foreign taxes. Income subject to tax is determined under tax accounting rules, not financial accounting principles, and includes almost all income from whatever source. Most business expenses reduce taxable income, though limits apply to a few expenses. Individuals are permitted to reduce taxable income by personal allowances and certain nonbusiness expenses, including home mortgage interest, state and local taxes, charitable contributions, and medical and certain other expenses incurred above certain percentages of income. State rules for determining taxable income often differ from federal rules. Federal tax rates vary from 10% to 39.6%

of taxable income. State and local tax rates vary widely by jurisdiction, from 0% to 13.30% of income and many are graduated. State taxes are generally treated as a deductible expense for federal tax computation. In 2013, the top marginal income tax rate for a high-income California resident would be 52.9%.

The United States is one of two countries in the world that taxes its nonresident citizens on worldwide income, in the same manner and rates as residents; the other is Eritrea. The Supreme Court upheld the constitutionality of the payment of such tax in the case of *Cook v. Tait, 265 U.S. 47 (1924)*.

Payroll taxes are imposed by the federal and all state governments. These include Social Security and Medicare taxes imposed on both employers and employees, at a combined rate of 15.3% (13.3% for 2011 and 2012). Social Security tax applies only to the first $128,700 in 2018, up from $127,200 in 2017. However, benefits are only accrued on the first $128,700 of wages. Employers must withhold income taxes on wages. An unemployment tax and certain other levies apply to employers. Payroll taxes have dramatically increased as a share of federal revenue since the 1950s, while corporate income taxes have fallen as a share of revenue. (Corporate profits have not fallen as a share of GDP).

Property taxes are imposed by most local governments and many special purpose authorities based on the fair market value of property. School and other authorities are often separately governed, and impose separate taxes. Property tax is generally imposed only on realty, though some jurisdictions tax some forms of business property. Property tax rules and rates vary widely with annual median rates ranging from 0.2% to 1.9% of a property's value depending on the state.

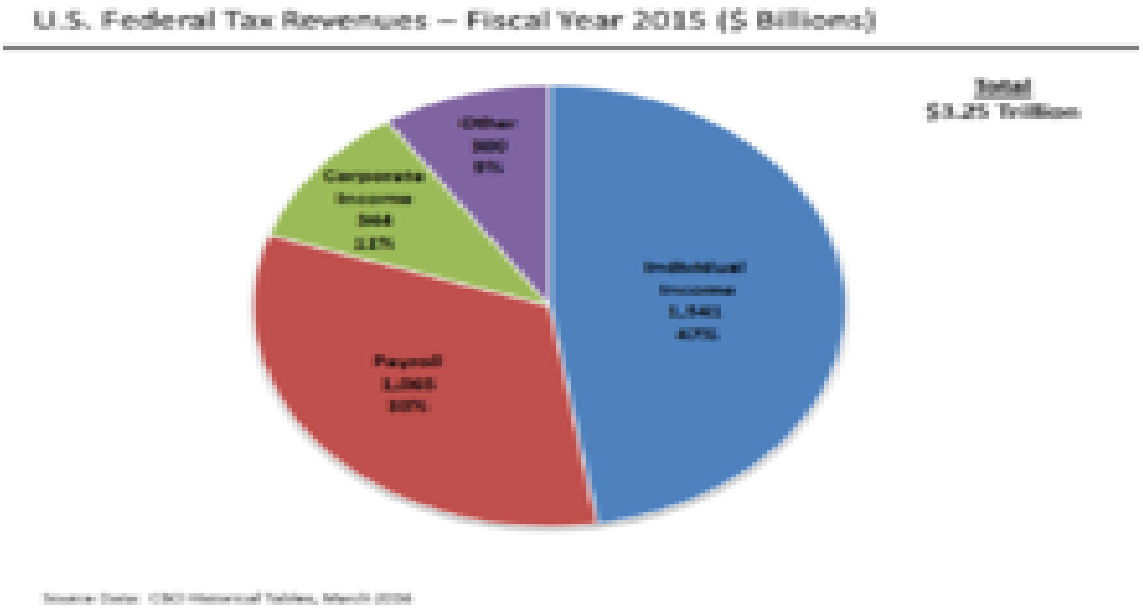
Sales Taxes

Sales taxes are imposed by most states and some localities on the price at retail sale of many goods and some services. Sales tax rates vary widely among jurisdictions, from 0% to 16%, and may vary within a jurisdiction based on the particular goods or services taxed. Sales tax is collected by the seller at the time of sale, or remitted as use tax by buyers of taxable items who did not pay sales tax.

The United States imposes tariffs or customs duties on the import of many types of goods from many jurisdictions. These tariffs or duties must be paid before the goods can be legally imported. Rates of duty vary from 0% to more than 20%, based on the particular goods and country of origin.

Estate and gift taxes are imposed by the federal and some state governments on the transfer of property inheritance, by will, or by life time donation. Similar to federal income taxes, federal estate and gift taxes are imposed on worldwide property of citizens and residents and allow a credit for foreign taxes.

Levels and types of taxation



U.S. Federal Tax Receipts for 2014.

The United States has an assortment of federal, state, local, and special-purpose governmental jurisdictions. Each imposes taxes to fully or partly fund its operations. These taxes may be imposed on the same income, property or activity, often without offset of one tax against another. The types of tax imposed at each level of government vary, in part due to constitutional restrictions. Income taxes are imposed at the federal and most state levels. Taxes on property are typically imposed only at the local level, though there may be multiple local jurisdictions that tax the same property. Other excise taxes are imposed by the federal and some state governments. Sales taxes are imposed by most states and many local governments. Customs duties or tariffs are only imposed by the federal government. A wide variety of user fees or license fees are also imposed.

A federal wealth tax would be required by the United States Constitution to be distributed to the States according their populations, as this type of tax is considered a direct tax. State and local government property taxes are wealth taxes on real estate.

Types of taxpayers

Taxes may be imposed on individuals (natural persons), business entities, estates, trusts, or other forms of organization. Taxes may be based on property, income, transactions, transfers, importations of goods, business activities, or a variety of factors, and are generally imposed on the type of taxpayer for whom such tax base is relevant. Thus, property taxes tend to be imposed on property owners. In addition, certain taxes, particularly income taxes, may be imposed on the members of organizations for the organization's activities. Thus, partners are taxed on the income of their partnership.

With few exceptions, one level of government does not impose tax on another level of government or its instrumentalities.

Income Tax in the United States
U.S. federal effective tax rates by income percentile and component as projected for 2014 by the Tax Policy Center. Taxes based on income are imposed at the federal, most state, and some local levels within the United States. The tax systems within each jurisdiction may define taxable income separately. Many states refer to some extent to federal concepts for determining taxable income.

History of the Income Tax
The first Income tax in the United States was implemented with the Revenue Act of 1861 by Abraham Lincoln during the Civil War. In 1895 the Supreme Court ruled that the U.S. federal income tax on interest income, dividend income and rental income was unconstitutional in Pollock v. Farmers' Loan & Trust Co. because it was a direct tax. The *Pollock* decision was overruled by the ratification of the Sixteenth Amendment to the United States Constitution in 1913, and by subsequent U.S. Supreme Court decisions including *Graves v. New York ex rel. O'Keefe* and *South Carolina v. Baker*.

Basic Concepts
The U.S. income tax system imposes a tax based on income on individuals, corporations, estates, and trusts. The tax is taxable income, as defined, times a specified tax rate. This tax may be reduced by credits, some of which may be refunded if they exceed the tax calculated. Taxable income may differ from income for other purposes (such as for financial reporting). The definition of taxable income for federal purposes is used by many, but far from all states. Income and deductions are recognized under tax rules, and there are variations within the rules among the states. Book and tax income may differ. Income is divided into "capital gains", which are taxed at a lower rate and only when the taxpayer chooses to "realize" them, and "ordinary income", which is taxed at higher rates and on an annual basis. Because of this distinction, capital is taxed much more lightly than labor.

Under the U.S. system, individuals, corporations, estates, and trusts are subject to income tax. Partnerships are not taxed; rather, their partners are subject to income tax on their shares of income and deductions, and take their shares of credits. Some types of business entities may elect to be treated as corporations or as partnerships.

Federal receipts by source as share of total receipts (1950–2010).

Individual income taxes
payroll taxes/FICA
corporate income taxes
excise taxes
estate and gift taxes
other receipts

Taxpayers are required to file tax returns and self assess tax. Tax may be withheld from payments of income (*e.g.*, withholding of tax from wages). To the extent taxes are not

covered by withholdings, taxpayers must make estimated tax payments, generally quarterly. Tax returns are subject to review and adjustment by taxing authorities, though far less than all returns are reviewed.

Taxable income is gross income less exemptions, deductions, and personal exemptions. Gross income includes "all income from whatever source". Certain income, however, is subject to tax exemption at the federal and/or state levels. This income is reduced by deductions including most business and some nonbusiness expenses. Individuals are also allowed a deduction for personal exemptions, a fixed dollar allowance. The allowance of some nonbusiness deductions is phased out at higher income levels.

The U.S. federal and most state income tax systems tax the worldwide income of citizens and residents. A federal foreign tax credit is granted for foreign income taxes. Individuals residing abroad may also claim the foreign earned income exclusion. Individuals may be a citizen or resident of the United States but not a resident of a state. Many states grant a similar credit for taxes paid to other states. These credits are generally limited to the amount of tax on income from foreign (or other state) sources.

Filing Status

Historical federal rates for income for the lowest and highest income earners in the US. Federal and state income tax is calculated, and returns filed, for each taxpayer. Two married individuals may calculate tax and file returns jointly or separately. In addition, unmarried individuals supporting children or certain other relatives may file a return as a head of household. Parent-subsidiary groups of companies may elect to file a consolidated return.

Graduated Tax Rates

Income tax rates differ at the federal and state levels for corporations and individuals. Federal and many state income tax rates are higher (graduated) at higher levels of income. The income level at which various tax rates apply for individuals varies by filing status. The income level at which each rate starts generally is higher (*i.e.*, tax is lower) for married couples filing a joint return or single individuals filing as head of household.
Individuals are subject to federal graduated tax rates from 10% to 37%. Corporations are subject to federal graduated rates of tax from 15% to 21%. The maximum rate before 2018 was 35%. State income tax rates vary from 1% to 16%, including local income tax where applicable. State and local taxes are deductible up to $10,000 in computing federal taxable income. Federal and many state individual income tax rate schedules differ based on the individual's filing status.

Rate	Individuals	Married Filing Jointly
10%	Up to $9,525	Up to $19,050
12%	$9,526 to $38,700	$19,051 to $77,400
22%	38,701 to $82,500	$77,401 to $165,000
24%	$82,501 to $157,500	$165,001 to $315,000

Rate	Individuals	Married Filing Jointly
32%	$157,501 to $200,000	$315,001 to $400,000
35%	$200,001 to $500,000	$400,001 to $600,000
37%	over $500,000	over $600,000

Income

Taxable income is gross income less adjustments and allowable tax deductions. Gross income for federal and most states is receipts and gains from all sources less cost of goods sold. Gross income includes "all income from whatever source," and is not limited to cash received.

The amount of income recognized is generally the value received or which the taxpayer has a right to receive. Certain types of income are specifically excluded from gross income. The time at which gross income becomes taxable is determined under federal tax rules. This may differ in some cases from accounting rules.

Certain types of income are excluded from gross income (and therefore subject to tax exemption). The exclusions differ at federal and state levels. For federal income tax, interest income on state and local bonds is exempt, while few states exempt any interest income except from municipalities within that state. In addition, certain types of receipts, such as gifts and inheritances, and certain types of benefits, such as employer-provided health insurance, are excluded from income.

Foreign nonresident persons are taxed only on income from U.S. sources or from a U.S. business. Tax on foreign nonresident persons on non-business income is at 30% of the gross income, but reduced under many tax treaties.

Deductions and Exemptions

The share of total income and federal, state and local taxes paid by income group. Total taxes include income taxes, payroll taxes, state and local sales taxes, federal and state excise taxes, and local property taxes. The U.S. system allows reduction of taxable income for both business and some nonbusiness expenditures, called deductions. Businesses selling goods reduce gross income directly by the cost of goods sold. In addition, businesses may deduct most types of expenses incurred in the business. Some of these deductions are subject to limitations. For example, only 50% of the amount incurred for any meals or entertainment may be deducted. The amount and timing of deductions for business expenses is determined under the taxpayer's tax accounting method, which may differ from methods used in accounting records.

Some types of business expenses are deductible over a period of years rather than when incurred. These include the cost of long lived assets such as buildings and equipment. The cost of such assets is recovered through deductions for depreciation or amortization.

In addition to business expenses, individuals may reduce income by an allowance for either a fixed standard deduction or itemized deductions. The standard deduction amount varies by taxpayer filing status. Itemized deductions by individuals include home mortgage interest, property taxes, certain other taxes, contributions to recognized charities, medical expenses in excess of 7.5% of adjusted gross income, and certain other amounts.

Personal exemptions, the standard deduction, and itemized deductions are limited (phased out) above certain income levels.

Business Entities

The U.S. federal effective corporate tax rate has become much lower than the nominal rate because of tax shelters such as tax havens. Corporations must pay tax on their taxable income independently of their shareholders. Shareholders are also subject to tax on dividends received from corporations. By contrast, partnerships are not subject to income tax, but their partners calculate their taxes by including their shares of partnership items. Corporations owned entirely by U.S. citizens or residents (S corporations) may elect to be treated similarly to partnerships. A limited liability company and certain other business entities may elect to be treated as corporations or as partnerships. States generally follow such characterization. Many states also allow corporations to elect S corporation status. Charitable organizations are subject to tax on business income.

Certain transactions of business entities are not subject to tax. These include many types of formation or reorganization.

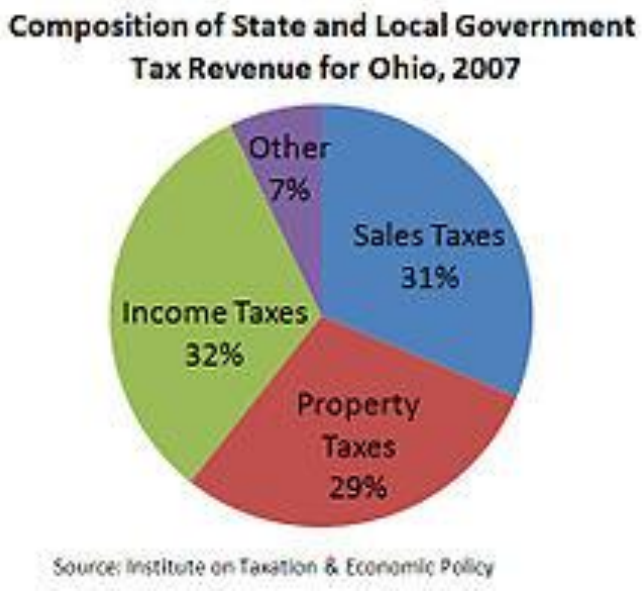
Credits

A wide variety of tax credits may reduce income tax at the federal and state levels. Some credits are available only to individuals, such as the child tax credit for each dependent child, American Opportunity Tax Credit for education expenses, or the Earned Income Tax Credit for low income wage earners. Some credits, such as the Work Opportunity Tax Credit, are available to businesses, including various special industry incentives. A few credits, such as the foreign tax credit, are available to all types of taxpayers.

Payment or Withholding of Taxes

The United States federal and state income tax systems are self-assessment systems. Taxpayers must declare and pay tax without assessment by the taxing authority. Quarterly payments of tax estimated to be due are required to the extent taxes are not paid through withholdings. Employers must withhold income tax, as well as Social Security and Medicare taxes, from wages. Amounts to be withheld are computed by employers based on representations of tax status by employees on Form W-4, with limited government review.

State Variations:



43 states and many localities in the United States impose an income tax on individuals. 47 states and many localities impose a tax on the income of corporations. Tax rates vary by state and locality, and may be fixed or graduated. Most rates are the same for all types of income. State and local income taxes are imposed in addition to federal income tax. State income tax is allowed as a deduction in computing federal income tax, subject to limitations for individuals.

State and local taxable income is determined under state law, and often is based on federal taxable income. Most states conform to many federal concepts and definitions, including defining income and business deductions and timing thereof. State rules vary widely with regard to individual itemized deductions. Most states do not allow a deduction for state income taxes for individuals or corporations, and impose tax on certain types of income exempt at the federal level.

Some states have alternative measures of taxable income, or alternative taxes, especially for corporations. States imposing an income tax generally tax all income of corporations organized in the state and individuals residing in the state. Taxpayers from another state are subject to tax only on income earned in the state or apportioned to the state. Businesses are subject to income tax in a state only if they have sufficient nexus in (connection to) the state.

Nonresidents
Foreign individuals and corporations not resident in the United States are subject to federal income tax only on income from a U.S. business and certain types of income from U.S. sources. They are subject to a different transfer tax (estate and gift taxes) regime than a U.S. taxpayer. States tax individuals resident outside the state and corporations organized outside the state only on wages or business income within the state. Payers of some types of income to nonresidents must withhold federal or state income tax on the payment. Federal withholding of 30% on such income may be reduced under a tax treaty. Such treaties do not apply to state taxes.

Alternative Tax Bases
An Alternative Minimum Tax (AMT) is imposed at the federal level on a somewhat modified version of taxable income. The tax applies to individuals and corporations. The tax base is adjusted gross income reduced by a fixed deduction that varies by taxpayer filing status. Itemized deductions of individuals are limited to home mortgage interest, charitable contributions, and a portion of medical expenses. AMT is imposed at a rate of 26% or 28% for individuals and 20% for corporations, less the amount of regular tax. A credit against future regular income tax is allowed for such excess, with certain restrictions.

As the name implies, the alternative minimum tax, or AMT, is a different way to calculate federal income tax in the United States. It was implemented in 1969 to ensure that high-income households paid their fair share of taxes, regardless of how many deductions they were entitled to.

The AMT is calculated by starting with your adjusted gross income (AGI) and adding back in a bunch of deductions that aren't allowed for AMT purposes. Major examples include the deductions for state and local income taxes, personal property taxes, and deductions for a net operating loss. The mortgage interest deduction and charitable contributions are still allowed, as are "above-the-line" deductions like IRA contributions.
While there are seven tax brackets in the standard income tax calculation method, the AMT has only two: 26% and 28%. For 2018, here are the alternative minimum tax brackets:

Filing Status	26% AMT Tax Rate	28% AMT Tax Rate
Married filing separately	AMTI up to $95,750	AMTI above $95,750
All other filers	AMTI up to $191,500	AMTI above $191,500

DATA SOURCE: TAX FOUNDATION.

Taxpayers calculate their federal income tax using the standard method and the AMT method; they are required to pay the higher of the two amounts.

Why Did the GOP Make a Change?
The problem with the implementation of the AMT is that the exemptions weren't initially indexed for inflation. Over time, as wages increased, the AMT started to apply to more and more taxpayers, including middle-income households who the tax was never supposed to affect.

According to the Tax Policy Center, about 2% of 2017 tax returns with income in the $100,000-$200,000 range will be affected by the AMT. For households in the $200,000-$500,000 income range, many of which could be considered middle-income in high-cost areas of the U.S., 29.4% of tax returns are expected to be affected. [5]

Many states impose minimum income taxes on corporations and/or a tax computed on an alternative tax base. These include taxes based on capital of corporations and alternative measures of income for individuals. Details vary widely by state.

Differences Between Book and Taxable Income for Businesses
In the United States, taxable income is computed under rules that differ materially from U.S. generally accepted accounting principles. Since only publicly traded companies are required to prepare financial statements, many non-public companies opt to keep their financial records under tax rules. Corporations that present financial statements using other than tax rules must include a detailed reconciliation of their financial statement income to their taxable income as part of their tax returns. Key areas of difference include depreciation and amortization, timing of recognition of income or deductions, assumptions for cost of goods sold, and certain items (such as meals and entertainment) the tax deduction for which is limited.

Reporting Under Self-Assessment System
Income taxes in the United States are self-assessed by taxpayers by filing required tax returns. Taxpayers, as well as certain non-taxpaying entities, like partnerships, must file annual tax returns at the federal and applicable state levels. These returns disclose a complete computation of taxable income under tax principles. Taxpayers compute all income, deductions, and credits themselves, and determine the amount of tax due after applying required prepayments and taxes withheld. Federal and state tax authorities provide preprinted forms that must be used to file tax returns. IRS Form 1040 series is required for individuals, Form 1120 series for corporations, Form 1065 for partnerships, and Form 990 series for tax exempt organizations.

The state forms vary widely, and rarely correspond to federal forms. Tax returns vary from the two-page (Form 1040EZ) used by nearly 70% of individual filers to thousands of pages of forms and attachments for large entities. Groups of corporations may elect to file consolidated returns at the federal level and with a few states. Electronic filing of federal and many state returns is widely encouraged and in some cases required, and many vendors offer computer software for use by taxpayers and paid return preparers to prepare and electronically file returns.

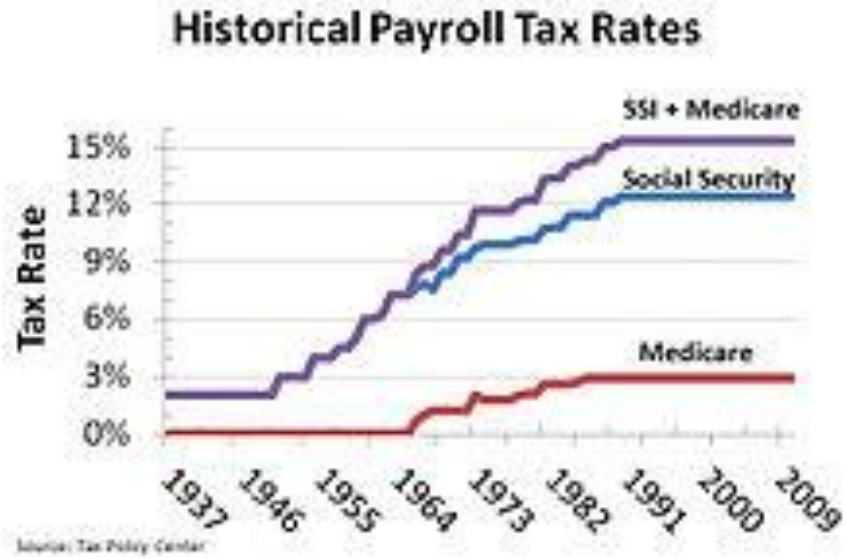
[5] Forbes Magazine

Payroll Taxes

In the United States, payroll taxes are assessed by the federal government, many states, the District of Columbia, and numerous cities. These taxes are imposed on employers and employees and on various compensation bases. They are collected and paid to the taxing jurisdiction by the employers. Most jurisdictions imposing payroll taxes require reporting quarterly and annually in most cases, and electronic reporting is generally required for all but small employers. Because payroll taxes are imposed only on wages and not on income from investments, taxes on labor income are much heavier than taxes on income from capital.

Income Tax Withholding

Tax withholding in the United States



Federal, state, and local withholding taxes are required in those jurisdictions imposing an income tax. Employers having contact with the jurisdiction must withhold the tax from wages paid to their employees in those jurisdictions. Computation of the amount of tax to withhold is performed by the employer based on representations by the employee regarding his/her tax status on IRS Form W-4. Amounts of income tax so withheld must be paid to the taxing jurisdiction, and are available as refundable tax credits to the employees. Income taxes withheld from payroll are not final taxes, merely prepayments. Employees must still file income tax returns and self assess tax, claiming amounts withheld as payments.

Social Security and Medicare Taxes

Federal social insurance taxes are imposed equally on employers and employees, consisting of a tax of 6.2% of wages up to an annual wage maximum ($118,500 in 2015) for Social Security plus a tax of 1.45% of total wages for Medicare. Workers contribute **6.2 percent** of their earnings to Social Security until their income

exceeds $128,700 in 2018, up from $127,200 in 2017. The Social Security Administration expects about 12 million people to pay higher taxes as a result of this change. To the extent an employee's portion of the 6.2% tax exceeds the maximum by reason of multiple employers (each of whom will collect up to the annual wage maximum), the employee is entitled to a refundable tax credit upon filing an income tax return for the year.

Unemployment Taxes
Employers are subject to unemployment taxes by the federal and all state governments. The tax is a percentage of taxable wages with a cap. The tax rate and cap vary by jurisdiction and by employer's industry and experience rating. For 2018, the typical maximum tax per employee was under $1,000. Some states also impose unemployment, disability insurance, or similar taxes on employees.

Reporting and Payment
Employers must report payroll taxes to the appropriate taxing jurisdiction in the manner each jurisdiction provides. Quarterly reporting of aggregate income tax withholding and Social Security taxes is required in most jurisdictions. Employers must file reports of aggregate unemployment tax quarterly and annually with each applicable state, and annually at the federal level.

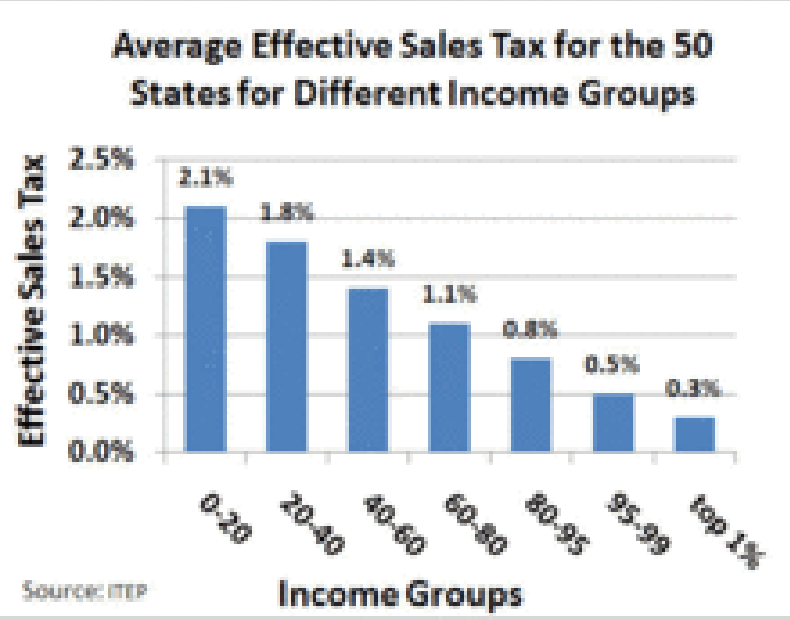
Each employer is required to provide each employee an annual report on IRS Form W-2 of wages paid and federal, state and local taxes withheld, with a copy sent to the IRS and the taxation authority of the state. These are due by January 31 and February 28 (March 31 if filed electronically), respectively, following the calendar year in which wages are paid. The Form W-2 constitutes proof of payment of tax for the employee.

Employers are required to pay payroll taxes to the taxing jurisdiction under varying rules, in many cases within 1 banking day. Payment of federal and many state payroll taxes is required to be made by electronic funds transfer if certain dollar thresholds are met, or by deposit with a bank for the benefit of the taxing jurisdiction.

Penalties
Failure to timely and properly pay federal payroll taxes results in an automatic penalty of 2% to 10%. Similar state and local penalties apply. Failure to properly file monthly or quarterly returns may result in additional penalties. Failure to file Forms W-2 results in an automatic penalty of up to $50 per form not timely filed. State and local penalties vary by jurisdiction.

A particularly severe penalty applies where federal income tax withholding and Social Security taxes are not paid to the IRS. The penalty of up to 100% of the amount not paid can be assessed against the employer entity as well as any person (such as a corporate officer) having control or custody of the funds from which payment should have been made.

Sales and Use Tax



There is no VAT, federal sales or use tax in the United States. All but five states impose sales and use taxes on retail sale, lease and rental of many goods, as well as some services. Many cities, counties, transit authorities and special purpose districts impose an additional local sales or use tax. Sales and use tax is calculated as the purchase price times the appropriate tax rate. Tax rates vary widely by jurisdiction from less than 1% to over 10%. Sales tax is collected by the seller at the time of sale. Use tax is self assessed by a buyer who has not paid sales tax on a taxable purchase.

Unlike value added tax, sales tax is imposed only once, at the retail level, on any particular goods. Nearly all jurisdictions provide numerous categories of goods and services that are exempt from sales tax, or taxed at a reduced rate. Purchase of goods for further manufacture or for resale is uniformly exempt from sales tax. Most jurisdictions exempt food sold in grocery stores, prescription medications, and many agricultural supplies. Generally cash discounts, including coupons, are not included in the price used in computing tax.

Sales taxes, including those imposed by local governments, are generally administered at the state level. States imposing sales tax require retail sellers to register with the

state, collect tax from customers, file returns, and remit the tax to the state. Procedural rules vary widely. Sellers generally must collect tax from in-state purchasers unless the purchaser provides an exemption certificate. Most states allow or require electronic remittance of tax to the state. States are prohibited from requiring out of state sellers to collect tax unless the seller has some minimal connection with the state.

Excise Taxes

Excise taxes may be imposed on the sales price of goods or on a per unit or other basis. Excise tax may be required to be paid by the manufacturer at wholesale sale, or may be collected from the customer at retail sale. Excise taxes are imposed at the federal and state levels on a variety of goods, including alcohol, tobacco, tires, gasoline, diesel fuel, coal, firearms, telephone service, air transportation, unregistered bonds, and many other goods and services. Some jurisdictions require that tax stamps be affixed to goods to demonstrate payment of the tax.

Property Taxes

Most jurisdictions below the state level in the United States impose a tax on interests in real property (land, buildings, and permanent improvements). Some jurisdictions also tax some types of business personal property. Rules vary widely by jurisdiction. Many overlapping jurisdictions (counties, cities, school districts) may have authority to tax the same property. Few states impose a tax on the value of property.

Property tax is based on fair market value of the subject property. The amount of tax is determined annually based on the market value of each property on a particular date, and most jurisdictions require redeterminations of value periodically. The tax is computed as the determined market value times an assessment ratio times the tax rate. Assessment ratios and tax rates vary widely among jurisdictions, and may vary by type of property within a jurisdiction. Where a property has recently been sold between unrelated sellers, such sale establishes fair market value. In other (*i.e.*, most) cases, the value must be estimated. Common estimation techniques include comparable sales, depreciated cost, and an income approach. Property owners may also declare a value, which is subject to change by the tax assessor.

Types of Property Taxed

Property taxes are most commonly applied to real estate and business property. Real property generally includes all interests considered under that state's law to be ownership interests in land, buildings, and improvements. Ownership interests include ownership of title as well as certain other rights to property. Automobile and boat registration fees are a subset of this tax. Usually, other nonbusiness goods are not subject to property tax.

Assessment and Collection

The assessment process varies by state, and sometimes within a state. Each taxing jurisdiction determines values of property within the jurisdiction and then determines the amount of tax to assess based on the value of the property. Tax assessors for taxing jurisdictions are generally responsible for determining property values. The

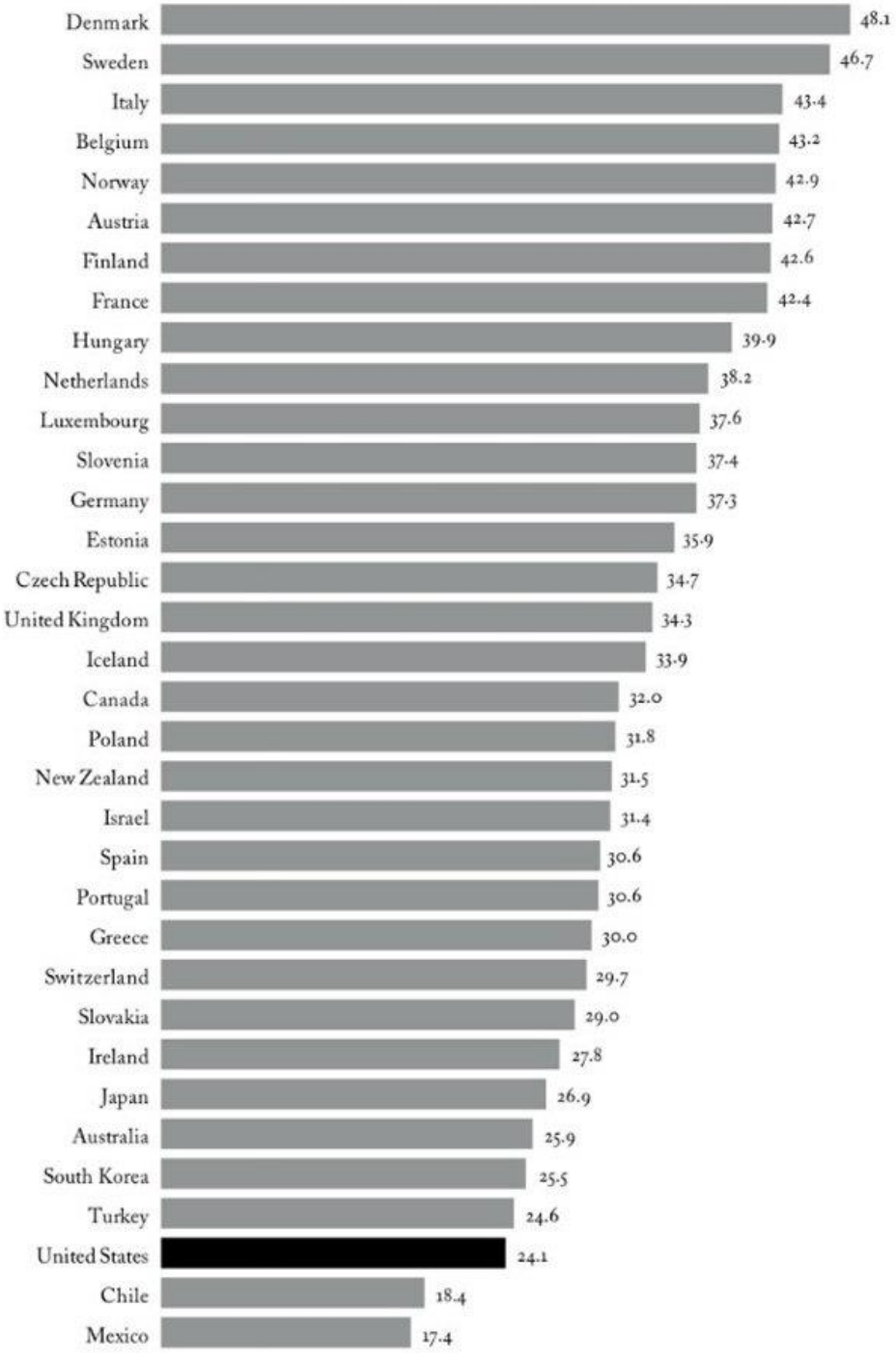
determination of values and calculation of tax is generally performed by an official referred to as a tax assessor. Property owners have rights in each jurisdiction to declare or contest the value so determined. Property values generally must be coordinated among jurisdictions, and such coordination is often performed by a board of equalization.

Once value is determined, the assessor typically notifies the last known property owner of the value determination. After values are settled, property tax bills or notices are sent to property owners. Payment times and terms vary widely. If a property owner fails to pay the tax, the taxing jurisdiction has various remedies for collection, in many cases including seizure and sale of the property. Property taxes constitute a lien on the property to which transferees are also subject. Mortgage companies often collect taxes from property owners and remit them on behalf of the owner.

Customs Duties

The United States imposes tariffs or customs duties on imports of goods. The duty is levied at the time of import and is paid by the importer of record. Customs duties vary by country of origin and product. Goods from many countries are exempt from duty under various trade agreements. Certain types of goods are exempt from duty regardless of source. Customs rules differ from other import restrictions. Failure to properly comply with customs rules can result in seizure of goods and criminal penalties against involved parties. United States Customs and Border Protection ("CBP") enforces customs rules.

Tax Revenue as Share of GDP for OECD Countries in 2009



SOURCE: Organization for Economic Cooperation and Development, 2009.

Total tax revenue as share of GDP for OECD countries in 2009. The tax burden in the US (black) is relatively small in comparison to other industrialized countries.

Goods may be imported to the United States subject to import restrictions. Importers of goods may be subject to tax ("customs duty" or "tariff") on the imported value of the goods. "Imported goods are not legally entered until after the shipment has arrived within the port of entry, delivery of the merchandise has been authorized by CBP, and estimated duties have been paid." Importation and declaration and payment of customs duties is done by the importer of record, which may be the owner of the goods, the purchaser, or a licensed customs broker. Goods may be stored in a bonded warehouse or a Foreign-Trade Zone in the United States for up to five years without payment of duties. Goods must be declared for entry into the U.S. within 15 days of arrival or prior to leaving a bonded warehouse or foreign trade zone. Many importers participate in a voluntary self-assessment program with CBP. Special rules apply to goods imported by mail. All goods imported into the United States are subject to inspection by CBP. Some goods may be temporarily imported to the United States under a system similar to the ATA Carnet system. Examples include laptop computers used by persons traveling in the U.S. and samples used by salesmen.

Origin
Rates of tax on transaction values vary by country of origin. Goods must be individually labeled to indicate country of origin, with exceptions for specific types of goods. Goods are considered to originate in the country with the highest rate of duties for the particular goods unless the goods meet certain minimum content requirements. Extensive modifications to normal duties and classifications apply to goods originating in Canada or Mexico under the North American Free Trade Agreement.

Classification
All goods that are not exempt are subject to duty computed according to the Harmonized Tariff Schedule published by CBP and the U.S. International Trade Commission. This lengthy schedule provides rates of duty for each class of goods. Most goods are classified based on the nature of the goods, though some classifications are based on use.

Duty Rate
Customs duty rates may be expressed as a percentage of value or dollars and cents per unit. Rates based on value vary from zero to 20% in the 2011 schedule. Rates may be based on relevant units for the particular type of goods (per ton, per kilogram, per square meter, etc.). Some duties are based in part on value and in part on quantity.
Where goods subject to different rates of duty are commingled, the entire shipment may be taxed at the highest applicable duty rate.

Procedures
Imported goods are generally accompanied by a bill of lading or air waybill describing the goods. For purposes of customs duty assessment, they must also be accompanied by an invoice documenting the transaction value. The goods on the bill of lading and

invoice are classified and duty is computed by the importer or CBP. The amount of this duty is payable immediately, and must be paid before the goods can be imported. Most assessments of goods are now done by the importer and documentation filed with CBP electronically.

After duties have been paid, CBP approves the goods for import. They can then be removed from the port of entry, bonded warehouse, or Free-Trade Zone.

After duty has been paid on particular goods, the importer can seek a refund of duties if the goods are exported without substantial modification. The process of claiming a refund is known as duty drawback.

Penalties

Certain civil penalties apply for failures to follow CBP rules and pay duty. Goods of persons subject to such penalties may be seized and sold by CBP. In addition, criminal penalties may apply for certain offenses. Criminal penalties may be as high as twice the value of the goods plus twenty years in jail.

Foreign-Trade Zones

Foreign-Trade Zones are secure areas physically in the United States but legally outside the customs territory of the United States. Such zones are generally near ports of entry. They may be within the warehouse of an importer. Such zones are limited in scope and operation based on approval of the Foreign-Trade Zones Board. Goods in a Foreign-Trade Zone are not considered imported to the United States until they leave the Zone. Foreign goods may be used to manufacture other goods within the zone for export without payment of customs duties.

Estate and Gift Tax

Estate and gift taxes in the United States are imposed by the federal and some state governments. The estate tax is an excise tax levied on the right to pass property at death. It is imposed on the estate, not the beneficiary. Some states impose an inheritance tax on recipients of bequests. Gift taxes are levied on the giver (donor) of property where the property is transferred for less than adequate consideration. An additional generation-skipping transfer (GST) tax is imposed by the federal and some state governments on transfers to grandchildren (or their descendants).

The federal gift tax is applicable to the donor, not the recipient, and is computed based on cumulative taxable gifts, and is reduced by prior gift taxes paid. The federal estate tax is computed on the sum of taxable estate and taxable gifts, and is reduced by prior gift taxes paid. These taxes were computed as the taxable amount times a graduated tax rate (up to 35% in 2011). The estate and gift taxes are also reduced by a "unified credit" equivalent to an exclusion ($5 million in 2011). The 2018 federal estate and gift tax limit is $11,180,000, based on inflation adjustments. That's per person, thanks to the December 2017 tax overhaul, so a couple can shelter double that amount. Rates and exclusions have varied, and the benefits of lower rates and the credit have been phased out during some years.

Taxable gifts are certain gifts of U.S. property by nonresident aliens, most gifts of any property by citizens or residents, in excess of an annual exclusion per donor per donee. If you gave each of your children $11,000 in 2002-2005, $12,000 in 2006-2008, $13,000 in 2009-2012 and **$14,000** on or after January 1, 2013, the annual exclusion applies to each gift. The annual exclusion for 2014, 2015, 2016 and 2017 is **$14,000**. For 2018, the annual exclusion is **$15,000**. Taxable estates are certain U.S. property of nonresident alien decedents, and most property of citizens or residents. For aliens, residence for estate tax purposes is primarily based on domicile, but U.S. citizens are taxed regardless of their country of residence. U.S. real estate and most tangible property in the U.S. are subject to estate and gift tax whether the decedent or donor is resident or nonresident, citizen or alien.

The taxable amount of a gift is the fair market value of the property in excess of consideration received at the date of gift. The taxable amount of an estate is the gross fair market value of all rights considered property at the date of death (or an alternative valuation date) ("gross estate"), less liabilities of the decedent, costs of administration (including funeral expenses) and certain other deductions. State estate taxes are deductible, with limitations, in computing the federal taxable estate. Bequests to charities reduce the taxable estate.

Gift tax applies to all irrevocable transfers of interests in tangible or intangible property. Estate tax applies to all property owned in whole or in part by a citizen or resident at the time of his or her death, to the extent of the interest in the property. Generally, all types of property are subject to estate tax. Whether a decedent has sufficient interest in property for the property to be subject to gift or estate tax is determined under applicable state property laws. Certain interests in property that lapse at death (such as life insurance) are included in the taxable estate.

Taxable values of estates and gifts are the fair market value. For some assets, such as widely traded stocks and bonds, the value may be determined by market listings. The value of other property may be determined by appraisals, which are subject to potential contest by the taxing authority. Special use valuation applies to farms and closely held businesses, subject to limited dollar amount and other conditions. Monetary assets, such as cash, mortgages, and notes, are valued at the face amount, unless another value is clearly established.

Life insurance proceeds are included in the gross estate. The value of a right of a beneficiary of an estate to receive an annuity is included in the gross estate. Certain transfers during lifetime may be included in the gross estate. Certain powers of a decedent to control the disposition of property by another are included in the gross estate.

The taxable estate of a married decedent is reduced by a deduction for all property passing to the decedent's spouse. Certain terminable interests are included. Other conditions may apply.

Donors of gifts in excess of the annual exclusion must file gift tax returns on IRS Form 709 and pay the tax. Executors of estates with a gross value in excess of the unified credit must file an estate tax return on IRS Form 706 and pay the tax from the estate. Returns are required if the gifts or gross estate exceed the exclusions. Each state has its own forms and filing requirements. Tax authorities may examine and adjust gift and estate tax returns.

Licenses and Occupational Taxes

Many jurisdictions within the United States impose taxes or fees on the privilege of carrying on a particular business or maintaining a particular professional certification. These licensing or occupational taxes may be a fixed dollar amount per year for the licensee, an amount based on the number of practitioners in the firm, a percentage of revenue, or any of several other bases. Persons providing professional or personal services are often subject to such fees. Common examples include accountants, attorneys, barbers, casinos, dentists, doctors, auto mechanics, plumbers, and stock brokers. In addition to the tax, other requirements may be imposed for licensure.

All 50 states impose vehicle license fee. Generally, the fees are based on type and size of vehicle and are imposed annually or biannually. All states and the District of Columbia also impose a fee for a driver's license, which generally must be renewed with payment of fee every few years.

User Fees

Fees are often imposed by governments for use of certain facilities or services. Such fees are generally imposed at the time of use. Multi-use permits may be available. For example, fees are imposed for use of national or state parks, rulings from the Internal Revenue Service, use of certain highways (called "tolls" or toll roads), parking on public streets, and use of public transit.

Taxes in the United States are administered by literally hundreds of tax authorities. At the federal level there are three tax administrations. Most domestic federal taxes are administered by the Internal Revenue Service, which is part of the Department of the Treasury. Alcohol, tobacco, and firearms taxes are administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB). Taxes on imports (customs duties) are administered by U.S. Customs and Border Protection. TTB is also part of the Department of the Treasury and CBP belongs to the Department of Homeland Security.

Organization of state and local tax administrations varies widely. Every state maintains a tax administration. A few states administer some local taxes in whole or part. Most localities also maintain a tax administration or share one with neighboring localities.

Federal: Internal Revenue Service

The IRS administers all U.S. federal taxation on domestic activities, except those taxes administered by TTB. IRS functions include:

- Processing federal tax returns (except TTB returns), including those for Social Security and other federal payroll taxes
- Providing assistance to taxpayers in completing tax returns
- Collecting all taxes due related to such returns
- Enforcement of tax laws through examination of returns and assessment of penalties
- Providing an appeals mechanism for federal tax disputes
- Referring matters to the Justice Department for prosecution
- Publishing information about U.S. federal taxes, including forms, publications, and other materials
- Providing written guidance in the form of rulings binding on the IRS for the public and for particular taxpayers

The IRS maintains several Service Centers at which tax returns are processed. Taxpayers generally file most types of tax returns by mail with these Service Centers, or file electronically. The IRS also maintains a National Office in Washington, DC, and numerous local offices providing taxpayer services and administering tax examinations.

Examination

Tax returns filed with the IRS are subject to examination and adjustment, commonly called an IRS audit. Only a small percentage of returns (about 1% of individual returns in IRS FY 2008) are examined each year. The selection of returns uses a variety of methods based on IRS experiences. On examination, the IRS may request additional information from the taxpayer by mail, in person at IRS local offices, or at the business location of the taxpayer. The taxpayer is entitled to representation by an attorney, CPA, or enrolled agent, at the expense of the taxpayer, who may make representations to the IRS on behalf of the taxpayer.

Taxpayers have certain rights in an audit. Upon conclusion of the audit, the IRS may accept the tax return as filed or propose adjustments to the return. The IRS may also assess penalties and interest. Generally, adjustments must be proposed within three years of the due date of the tax return. Certain circumstances extend this time limit, including substantial understatement of income and fraud. The taxpayer and the IRS may agree to allow the IRS additional time to conclude an audit. If the IRS proposes adjustments, the taxpayer may agree to the adjustment, appeal within the IRS, or seek judicial determination of the tax.

Published and Private Rulings

In addition to enforcing tax laws, the IRS provides formal and informal guidance to taxpayers. While often referred to as IRS Regulations, the regulations under the Internal Revenue Code are issued by the Department of Treasury. IRS guidance consists of:

- Revenue Rulings, Revenue Procedures, and various IRS pronouncements

- applicable to all taxpayers and published in the Internal Revenue Bulletin, which are binding on the IRS,
- Private letter rulings on specific issues, applicable only to the taxpayer who applied for the ruling,
- IRS Publications providing informal instruction to the public on tax matters,
- IRS forms and instructions,
- A comprehensive web site, and
- Informal (nonbinding) advice by telephone.

Alcohol and Tobacco Tax and Trade Bureau
The Alcohol and Tobacco Tax Trade Bureau (TTB), a division of the Department of the Treasury, enforces federal excise tax laws related to alcohol, tobacco, and firearms. TTB has six divisions, each with discrete functions:

- Revenue Center: processes tax returns and issues permits, and related activities
- Risk Management: internally develops guidelines and monitors programs
- Tax Audit: verifies filing and payment of taxes
- Trade Investigations: investigating arm for non-tobacco items
- Tobacco Enforcement Division: enforcement actions for tobacco
- Advertising, Labeling, and Formulation Division: implements various labeling and ingredient monitoring

Criminal enforcement related to TTB is done by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, a division of the Justice Department.

Customs and Border Protection
U.S. Customs and Border Protection (CBP), an agency of the United States Department of Homeland Security, collects customs duties and regulates international trade. It has a workforce of over 58,000 employees covering over 300 official ports of entry to the United States. CBP has authority to seize and dispose of cargo in the case of certain violations of customs rules.

State Administrations
Every state in the United States has its own tax administration, subject to the rules of that state's law and regulations. These are referred to in most states as the Department of Revenue or Department of Taxation. The powers of the state taxing authorities vary widely. Most enforce all state level taxes but not most local taxes. However, many states have unified state-level sales tax administration, including for local sales taxes.

State tax returns are filed separately with those tax administrations, not with the federal tax administrations. Each state has its own procedural rules, which vary widely.

Local Administrations
Most localities within the United States administer most of their own taxes. In many cases, there are multiple local taxing jurisdictions with respect to a particular taxpayer or

property. For property taxes, the taxing jurisdiction is typically represented by a tax assessor/collector whose offices are located at the taxing jurisdiction's facilities.

Legal Basis

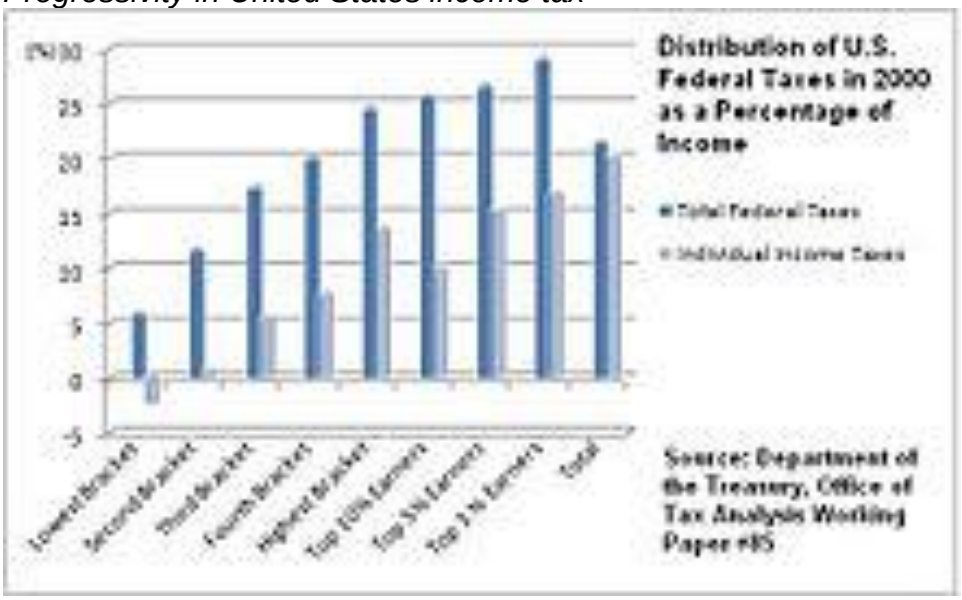
The United States Constitution provides that Congress "shall have the power to lay and collect Taxes, Duties, Imposts, and Excises ... but all Duties, Imposts, and Excises shall be uniform throughout the United States." Prior to amendment, it provided that "No Capitation, or other direct, Tax shall be Laid unless in proportion to the Census ..." The 16th Amendment provided that "Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." The 10th Amendment provided that "powers not delegated to the United States by this Constitution, nor prohibited to the States, are reserved to the States respectively, or to the people."

Congress has enacted numerous laws dealing with taxes since adoption of the Constitution. Those laws are now codified as Title 19, Customs Duties, Title 26, Internal Revenue Code, and various other provisions. These laws specifically authorize the United States Secretary of the Treasury to delegate various powers related to levy, assessment and collection of taxes.

State constitutions uniformly grant the state government the right to levy and collect taxes. Limitations under state constitutions vary widely.

Various individuals and groups have questioned the legitimacy of United States federal income tax. These arguments are varied, but have been uniformly rejected by the Internal Revenue Service and by the courts and ruled to be frivolous.

Progressivity in United States income tax



Each major type of tax in the United States has been used by some jurisdiction at some time as a tool of social policy. Both liberals and conservatives have called for more progressive taxes in the U.S.

Tax Evasion

The Internal Revenue Service estimated that in 2001 the tax gap was $345 billion. The tax gap is the difference between the amount of tax legally owed and the amount actually collected by the government. The tax gap in 2006 was estimated to be $450 billion. The tax gap two years later in 2008 was estimated to be in the range of $450–$500 billion and unreported income was estimated to be approximately $2 trillion. Therefore, 18-19 percent of total reportable income was not properly reported to the IRS.

History

Before 1776, the American Colonies were subject to taxation by the United Kingdom, and also imposed local taxes. Property taxes were imposed in the Colonies as early as 1634. In 1673, the UK Parliament imposed a tax on exports from the American Colonies, and with it created the first tax administration in what would become the United States. Other tariffs and taxes were imposed by Parliament. Most of the colonies and many localities adopted property taxes.

Under Article VIII of the Articles of Confederation, the United States federal government did not have the power to tax. All such power lay with the states. The United States Constitution, adopted in 1787, authorized the federal government to lay and collect taxes, but required that some types of tax revenues be given to the states in proportion to population. Tariffs were the principal federal tax through the 1800s.

By 1796, state and local governments in fourteen of the 15 states taxed land. Delaware taxed the income from property. The War of 1812 required a federal sales tax on specific luxury items due to its costs. However, internal taxes were dropped in 1817 in favor of import tariffs that went to the federal government. By the American Civil War, the principle of taxation of property at a uniform rate had developed, and many of the states relied on property taxes as a major source of revenue. However, the increasing importance of intangible property, such as corporate stock, caused the states to shift to other forms of taxation in the 1900s.

Income taxes in the form of "faculty" taxes were imposed by the colonies. These combined income and property tax characteristics, and the income element persisted after 1776 in a few states. Several states adopted income taxes in 1837. Wisconsin adopted a corporate and individual income tax in 1911, and was the first to administer the tax with a state tax administration.

The first federal income tax was adopted as part of the Revenue Act of 1861. The tax lapsed after the American Civil War. Subsequently enacted income taxes were held to be unconstitutional by the Supreme Court in Pollock v. Farmers' Loan & Trust Co. because they did not apportion taxes on property by state population. In 1913,

the Sixteenth Amendment to the United States Constitution was ratified, permitting the federal government to levy an income tax on both property and labor.

The federal income tax enacted in 1913 included corporate and individual income taxes. It defined income using language from prior laws, incorporated in the Sixteenth Amendment, as "all income from whatever source derived." The tax allowed deductions for business expenses, but few non-business deductions. In 1918 the income tax law was expanded to include a foreign tax credit and more comprehensive definitions of income and deduction items. Various aspects of the present system of definitions were expanded through 1926, when U.S. law was organized as the United States Code. Income, estate, gift, and excise tax provisions, plus provisions relating to tax returns and enforcement, were codified as Title 26, also known as the Internal Revenue Code. This was reorganized and somewhat expanded in 1954, and remains in the same general form.

Federal taxes were expanded greatly during World War I. In 1921, Treasury Secretary Andrew Mellon engineered a series of significant income tax cuts under three presidents. Mellon argued that tax cuts would spur growth. Taxes were raised again in the latter part of the Depression, and during World War II. Income tax rates were reduced significantly during the Johnson, Nixon, and Reagan Presidencies. Significant tax cuts for corporations and all individuals were enacted during the second Bush Presidency.

In 1986, Congress adopted, with little modification, a major expansion of the income tax portion of the Internal Revenue Code proposed in 1985 by the U.S. Treasury Department under President Reagan. The thousand page Tax Reform Act of 1986 significantly lowered tax rates, adopted sweeping expansions of international rules, eliminated the lower individual tax rate for capital gains, added significant inventory accounting rules, and made substantial other expansions of the law.

Federal income tax rates have been modified frequently. Tax rates were changed in 34 of the 97 years between 1913 and 2010. The rate structure has been graduated since the 1913 act.

Total tax revenue (not adjusted for inflation) for the U.S. federal government from 1980 to 2009 compared to the amount of revenue coming from individual income taxes.

The first individual income tax return Form 1040 under the 1913 law was four pages long. In 1915, some Congressmen complained about the complexity of the form. In 1921, Congress considered but did not enact replacement of the income tax with a national sales tax.

By the 1920s, many states had adopted income taxes on individuals and corporations. Many of the state taxes were simply based on the federal definitions. The states generally taxed residents on all of their income, including income earned in other states,

as well as income of nonresidents earned in the state. This led to a long line of Supreme Court cases limiting the ability of states to tax income of nonresidents.

The states had also come to rely heavily on retail sales taxes. However, as of the beginning of World War II, only two cities (New York and New Orleans) had local sales taxes.

The Federal Estate Tax was introduced in 1916, and Gift Tax in 1924. Unlike many inheritance taxes, the Gift and Estate taxes were imposed on the transferor rather than the recipient. Many states adopted either inheritance taxes or estate and gift taxes, often computed as the amount allowed as a deduction for federal purposes. These taxes remained under 1% of government revenues through the 1990s.

All governments within the United States provide tax exemption for some income, property, or persons. These exemptions have their roots both in tax theory, federal and state legislative history, and the United States Constitution.

1. ^ *Porter, Eduardo (August 14, 2012). "America's Aversion to Taxes". New York Times. Retrieved 2012-08-15. In 1965, taxes collected by federal, state and municipal governments amounted to 24.7 percent of the nation's output. In 2010, they amounted to 24.8 percent. Excluding Chile and Mexico, the United States raises less tax revenue, as a share of the economy, than every other industrial country.*
2. ^ to: [a] [b] [c] [d] [e] *Simkovic, Michael. "The Knowledge Tax". University of Chicago Law Review* ***82****: 1981.*
3. ^ *"TEMPORARY TAXES TO FUND EDUCATION. GUARANTEED LOCAL PUBLIC SAFETY FUNDING. INITIATIVE CONSTITUTIONAL AMENDMENT" (PDF). Vig.cdn.sos.ca.gov/. 2013-04-05. Retrieved 2013-10-13.*
4. ^ *NAGOURNEY, ADAM (2013-04-05). "Two-Tax Rise Tests Wealthy in California". NYtimes.com. Retrieved 2013-12-18.*
5. ^ *"Property Taxes By State". Tax-Rates.org. 2009. Retrieved 2015-02-01.*
6. ^ *"Effective tax rates: income, payroll, corporate and estate taxes combined". Peter G. Peterson Foundation. July 1, 2013. Retrieved 3 November 2013.*
7. ^ *"T13-0174 - Average Effective Federal Tax Rates by Filing Status; by Expanded Cash Income Percentile, 2014". Tax Policy Center. Jul 25, 2013. Retrieved 3 November 2013.*
8. ^ See generally Boris I. Bittker, "Constitutional Limits on the Taxing Power of the Federal Government," *Tax Lawyer*, Vol. 41, No. 1, p. 3, American Bar Ass'n (Fall 1987); William D. Andrews, *Basic Federal Income Taxation*, p. 2, Little, Brown and Company (3d ed. 1985); Calvin H. Johnson, "The Constitutional Meaning of 'Apportionment of Direct Taxes'", 80 Tax Notes 591 (Aug. 3, 1998); and Sheldon D. Pollack, "Origins of the Modern Income Tax, 1894-1913," 66 *Tax Lawyer* 295, 323-324, Winter 2013 (Amer. Bar Ass'n).
9. ^ 306 U.S. 466 (1939).
10. ^ 485 U.S. 505 (1988).
11. ^ 26 USC 1 and 26 USC11; IRS Publication 17 and Publication 542.
12. ^ JCX-49-11, Joint Committee on Taxation, September 22, 2011, pp 4, 50.
13. ^ See, *e.g.*, IRS Publication 17, page 45.
14. ^ *"U.S. Federal Individual Income Tax Rates History, 1913–2011". Tax Foundation. 9 September 2011.*
15. ^ 26 USC 1; IRS [Publication 17], page 266.
16. ^ to: [a] [b] 26 USC 11; IRS Publication 542.
17. ^ 26 USC 61; IRS Publication 17, Part II.
18. ^ 26 USC 161-249; IRS Publication 17, Publication 501 and Publication 535.
19. ^ 26 USC 446-475; IRS [Publication].

20. ^ 26 USC 101-140.
21. ^ *Coombes, Andrea (2012-04-15). "Taxes—Who Really Is Paying Up - WSJ.com". Online.wsj.com. Retrieved 2013-10-13.*
22. ^ 26 USC 161-199; IRS Publication 535.
23. ^ 26 USC ; IRS Publication 17, Chapters 21–28.
24. ^ 26 USC 274; IRS Publication 463.
25. ^ IRS Regulations at 26 CFR 1. 446-1; IRS Publication 538.
26. ^ 26 USC 151; IRS Publication 501.
27. ^ 26 USC 63; IRS Publication 501.
28. ^ 26 USC 68; IRS Publication 17, Chapter 29.
29. ^ "Repatriating Offshore Funds" *U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations*, October 11, 2011
30. ^ "Picking Up the Tab" *U.S.* Public Interest Research Group*, April 2012*
31. ^ 26 USC 61(a)(7).
32. ^ 26 USC 701; IRS Publication 541.
33. ^ 26 CFR 301.7701-2; IRS Form 8832.
34. ^ 26 USC 512; IRS Publication 598.
35. ^ 26 USC 332-368; IRS Publication 542.
36. ^ 26 USC 21-54AA.
37. ^ *"The American Opportunity Tax Credit" (PDF). US Department of the Treasury. Retrieved 2012-06-26.*
38. ^ 26 USC 6654 and 26 USC 6655; IRS Publication 505.
39. ^ 26 USC 3102 and 26 USC 3402; IRS Publication 15.
40. ^ Contrast to, *e.g.*, the United Kingdom system in which all withholding amounts are determined by Inland Revenue.
41. ^ Carl Davis, Kelly Davis, Matthew Gardner, Robert S. McIntyre, Jeff McLynch, Alla Sapozhnikova, "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States", Institute on Taxation & Economic Policy, Third Edition, November 2009, p. 87.
42. ^ Hellerstein, Jerome H., and Hellerstein, Walter, State and Local Taxation, Cases and Materials, Eighth Edition, 2001 (hereafter "Hellerstein"), page 929.
43. ^ 26 USC 871-898; IRS Publication 515.
44. ^ 26 USC 55-59; IRS Form 6251 instructions.
45. ^ 26 USC 6201(a)(1); IRS [Publication].
46. ^ 26 USC 6011.
47. ^ A tutorial is available online from the Internal Revenue Service (IRS) explaining various aspects of employer compliance, see Video Tutorial.
48. ^ *Tax Policy Center (2011-03-23). "Historical Payroll Tax Rates". Taxpolicycenter.org. Retrieved 2013-10-13.*
49. ^ The determination of whether a person performing services is an employee subject to payroll tax or an independent contractor who self assesses tax is based on 20 factors. See IRS Publication 15 and the tutorial referenced above. For federal requirements, see 26 USC 3401-3405.
50. ^ *"IRS Form W-4" (PDF). Retrieved 2013-11-15.*
51. ^ 26 USC 31.
52. ^ *"26 USC 3111". Law.cornell.edu. Retrieved 2013-11-15.*
53. ^ 26 USC 3101.
54. ^ *"ssa.gov".*
55. ^ Note that an equivalent Self Employment Tax is imposed on self-employed persons, including independent contractors, under 26 USC 1401. Wages and self employment income subject to these taxes are defined at 26 USC 3121 and 26 USC 1402respectively.
56. ^ *"IRS.gov" (PDF). Retrieved 2013-11-15.*
57. ^ 26 USC 31(b) and 26 USC 6413(c).
58. ^ 26 USC 3301.
59. ^ As defined in 26 USC 3306(b).

60. ^ State tax rates and caps vary. For example, Texas imposes up to 8.6% tax on the first $9,000 of wages ($774), while New Jersey imposes 3.2% tax on the first $28,900 for wages ($924). Federal tax of 6.2% less a credit for state taxes limited to 5.4% applies to the first $7,000 of wages (net $56).
61. ^ See, e.g., New Jersey.
62. ^ See, e.g., IRS Form 941. Electronic filing may be required.
63. ^ See, *e.g.*, IRS Form 940.
64. ^ *"IRS Form W-2" (PDF). Retrieved 2013-11-15.*
65. ^ See IRS Form W-2 Instructions. Note that some states and cities obtain their W-2 information from the IRS and from taxpayers directly.
66. ^ See 26 USC 6302 and IRS Publication 15 for federal requirements. EFT is required for federal payments if aggregate federal tax payments, including corporate income tax and payroll taxes, exceeded $200,000 in the preceding year. See, e.g., NJ Income Tax - Reporting and Remitting, New Jersey requirements for weekly EFT payment where prior year payroll taxes exceeded $10,000.
67. ^ 26 USC 6656.
68. ^ 26 USC 6721.
69. ^ 26 USC 6672.
70. ^ Carl Davis, Kelly Davis, Matthew Gardner, Robert S. McIntyre, Jeff McLynch, Alla Sapozhnikova, "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States", Institute on Taxation & Economic Policy, Third Edition, November 2009, pp 118.
71. ^ Quill Corp. v. North Dakota and National Bellas Hess v. Illinois both prohibit states from imposing a sales and use tax collection obligation on out of state sellers with no nexus in the state.
72. ^ Hellerstein, page 96.
73. ^ Compare The Illinois Property Tax System (hereafter "IL System"), Louisiana Property Tax Basics (hereafter "La. Basics"), New York pamphlet How Property Tax Works(hereafter "NY Taxworks"), and Texas Property Tax Basics (hereafter "Texas Basics").
74. ^ Fisher, Glen, History of Property Taxes in the United States, 2002.
75. ^ Such date varies by jurisdiction, and may be referred to as the assessment date, valuation date, lien date, or other term.
76. ^ See La. Basics, Example 13.
77. ^ See, e.g., IL System, page 11.
78. ^ Generally, tax assessors send the bills. In Louisiana, however, the parish sheriff is responsible for billing and collection of property tax. See La. Basics, page 2.
79. ^ *Campbell, Andrea (September–October 2012). "America the Undertaxed, U.S. Fiscal Policy in Perspective". Foreign Affairs. Retrieved 1 October 2012.*
80. ^ U.S. Customs and Border Protection booklet *Importing into the United States* ("CBP Booklet"), page 11.
81. ^ The January 2011 edition in .pdf exceeds 3,000 pages, including country-specific rules and annotations.
82. ^ A higher rate of duty (up to 81%) applies to goods from Cuba or North Korea.
83. ^ CBP Booklet, page 24.
84. ^ *"U.S. Foreign-Trade Zones Board". United States Commercial Service. Retrieved18 March 2014.*
85. ^ CBP Booklet, page 151.
86. ^ See IRS Publication 950, Introduction to Estate and Gift Taxes.
87. ^ IRS, SOI Tax Stats – Historical Table 17
88. ^ Nonresident aliens are subject to estate and gift tax only on property interests considered to have U.S. situs.
89. ^ *"CBP website says Department of Homeland Security at bottom right of page". Cbp.gov. 2005-09-28. Retrieved 2013-11-15.*
90. ^ *"Internal Revenue Bulletin: 2012-23". Internal Revenue Service. 4 June 2012. Retrieved 7 June 2012.*
91. ^ Constitution Article I Section 8.

92. ^ Frivolous Tax, Internal Revenue Service
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- Customs and Border Patrol website
- Alcohol and Tobacco Tax website

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- Code of Federal Regulations, 26 CFR

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U.S. Tax Rates

2016 tax brackets (for taxes due April 17, 2017) After Deductions and Exemptions

Tax rate	Single filers	Married filing jointly or qualifying widow/widower	Married filing separately	Head of household
10%	Up to $9,275	Up to $18,550	Up to $9,275	Up to $13,250
15%	$9,276 to $37,650	$18,551 to $75,300	$9,276 to $37,650	$13,251 to $50,400
25%	$37,651 to $91,150	$75,301 to $151,900	$37,651 to $75,950	$50,401 to $130,150

U.S. Tax Rates

2016 tax brackets (for taxes due April 17, 2017) After Deductions and Exemptions

Tax rate	Single filers	Married filing jointly or qualifying widow/widower	Married filing separately	Head of household
28%	$91,151 to $190,150	$151,901 to $231,450	$75,951 to $115,725	$130,151 to $210,800
33%	$190,151 to $413,350	$231,451 to $413,350	$115,726 to $206,675	$210,801 to $413,350
35%	$413,351 to $415,050	$413,351 to $466,950	$206,676 to $233,475	$413,351 to $441,000
39.6%	$415,051 or more	$466,951 or more	$233,476 or more	$441,001 or more

2018 Income Tax Brackets

Rate	Individuals	Married Filing Jointly
10%	Up to $9,525	Up to $19,050
12%	$9,526 to $38,700	$19,051 to $77,400
22%	38,701 to $82,500	$77,401 to $165,000
24%	$82,501 to $157,500	$165,001 to $315,000
32%	$157,501 to $200,000	$315,001 to $400,000
35%	$200,001 to $500,000	$400,001 to $600,000
37%	over $500,000	over $600,000

Standard or Itemized Tax Deduction?
Tax deductions reduce your taxable income. Less income means a smaller tax bill. What's the best way to reach the smallest possible taxable income level -- with a standard or itemized deduction? It depends on your personal circumstances.

The IRS says most taxpayers use the standard deduction. The standard deduction amount is different for each filing status and is higher for blind taxpayers and those who are age 65 or older. The amounts are also adjusted for inflation each year.

For 2018 tax returns, the standard deductions are:
The standard deduction amounts will increase to**$12,000** for individuals, $18,000 for heads of household, and **$24,000** for married couples filing jointly and surviving

spouses. For 2018, the additional standard deduction amount for the aged or the blind is $1,300

Standard Deduction Amounts
Some older and visually impaired taxpayers may be able to cut their tax bills with even larger standard deduction amounts by simply checking a couple of boxes on their tax returns.

But individuals who spend a lot on medical care, mortgage interest, state and local taxes, charitable contributions or a variety of miscellaneous items generally are better off itemizing.

Itemizing ground rules
When you do itemize, there are a few things to keep in mind. First, not every dollar you spend can be subtracted from your income. In the medical category, if you are age 64 or younger, then only expenses that exceed 10% of your adjusted gross income can be deducted. If you didn't spend that much, then none of your costs are deductible.

The previous 7.5% AGI medical deduction threshold still applies to taxpayers age 65 or older. This lower income requirement is in effect for older filers through the 2016 tax year.

Separately, you have to reach a 2%-of-income threshold before you can use miscellaneous deductions, such as unreimbursed job expenses and investment and tax-preparation costs. There also are restrictions on how much in casualty losses you can deduct, as well as limits on the deductibility of very large charitable contribution amounts.

Filing status affects figures
Filing status sometimes affects your deduction method and amount. Married couples who file separately, for example, must work together when it comes to deciding which deduction route to take. Even though each partner will fill out a separate return, if one spouse decides to itemize, the other must do so, too.

Social Security & Medicare

Tax Rate:	**2017**	**2018**
Employee	7.65%	7.65%
Self-Employed	15.30%	15.30%

NOTE: The 7.65% tax rate is the combined rate for Social Security and Medicare. The Social Security portion (OASDI) is 6.20% on earnings up to the applicable taxable maximum amount (see below). The Medicare portion (HI) is 1.45% on all earnings. Also, as of January 2013, individuals with earned income of more than $200,000

($250,000 for married couples filing jointly) pay an additional 0.9 percent in *Medicare taxes*. The *tax* rates shown above do not include the 0.9 percent.

Maximum Taxable Earnings:	**2017**	**2018**
Social Security (OASDI only)	$127,200	$128,400
Medicare (HI only)	No Limit	

Pre 2017 U. S. Corporate Tax Rates

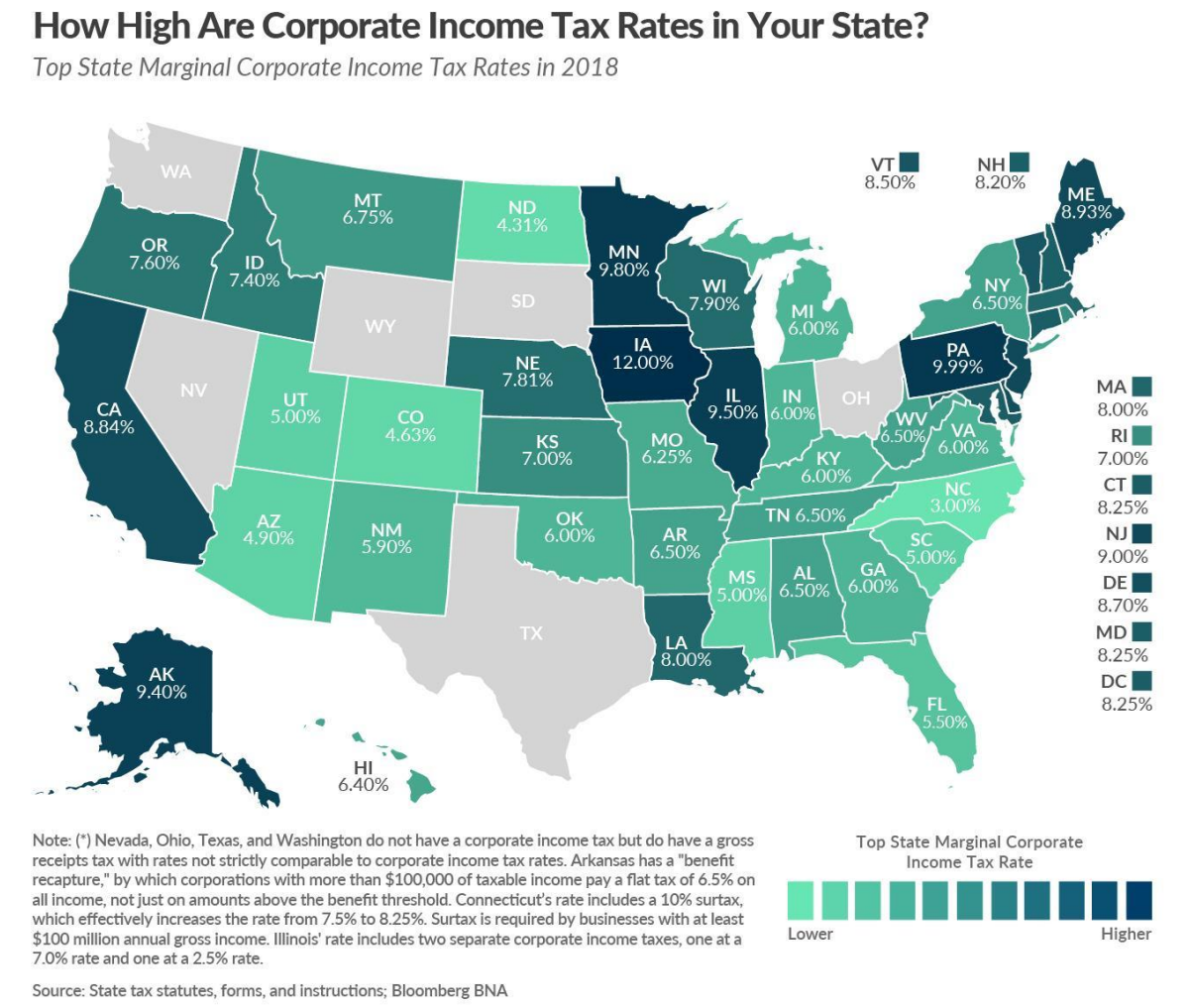
Taxable Income ($)	**Tax Rate**
335,000 to 10,000,000	$113,900 + 34% Of the amount over $335,000
10,000,000 to 15,000,000	$3,400,000 + 35% Of the amount over $10,000,000
15,000,000 to 18,333,333	$5,150,000 + 38% Of the amount over $15,000,000
18,333,333 and up	35%

2018 - 21%

State Taxes

Each state has its own tax regime. Most but not all states impose an income tax. Rates of taxation and allowable deductions vary widely from state to state. All states have a sales tax applied to almost all sales of tangible assets. The rates vary from a low of 4% to a high of 10.5%.

State Corporate Income Tax Rates As of January 1, 2018



State	Rates		Brackets
Ala.	6.50%	>	$0
Alaska	0.00%	>	$0
	2.00%	>	$25,000
	3.00%	>	$49,000
	4.00%	>	$74,000
	5.00%	>	$99,000
	6.00%	>	$124,000
	7.00%	>	$148,000
	8.00%	>	$173,000
	9.00%	>	$198,000

State	Rates		Brackets
	9.40%	>	$222,000
Ariz.	4.90%	>	$0
Ark. (a)	1.00%	>	$0
	2.00%	>	$3,000
	3.00%	>	$6,000
	5.00%	>	$11,000
	6.00%	>	$25,000
	6.50%	>	$100,000
Calif.	8.84%	>	$0
Colo.	4.63%	>	$0
Conn. (b)	8.25%	>	$0
Del. (c)	8.70%	>	$0
Fla.	5.50%	>	$0
Ga.	6.00%	>	$0
Hawaii	4.40%	>	$0
	5.40%	>	$25,000
	6.40%	>	$100,000
Idaho	7.40%	>	$0
Ill. (d)	9.50%	>	$0
Ind. (e)	6.00%	>	$0
Iowa	6.00%	>	$0
	8.00%	>	$25,000
	10.00%	>	$100,000
	12.00%	>	$250,000
Kans.	4.00%	>	$0
	7.00%	>	$50,000
Ky.	4.00%	>	$0
	5.00%	>	$50,000
	6.00%	>	$100,000
La.	4.00%	>	$0
	5.00%	>	$25,000
	6.00%	>	$50,000
	7.00%	>	$100,000
	8.00%	>	$200,000
Maine	3.50%	>	$0
	7.93%	>	$25,000
	8.33%	>	$75,000
	8.93%	>	$250,000
Md.	8.25%	>	$0
Mass.	8.00%	>	$0
Mich.	6.00%	>	$0
Minn.	9.80%	>	$0
Miss.	0.00%	>	$0

State	Rates		Brackets
	3.00%	>	$1,000
	4.00%	>	$5,000
	5.00%	>	$10,000
Mo.	6.25%	>	$0
Mont.	6.75%	>	$0
Nebr.	5.58%	>	$0
	7.81%	>	$100,000
Nev.		(c)	
N.H.	8.20%	>	$0
N.J. (f)	9.00%	>	$100,000
N.M. (g)	4.80%	>	$0
	5.90%	>	$500,000
N.Y.	6.50%	>	$0
N.C.	3.00%	>	$0
N.D.	1.41%	>	$0
	3.55%	>	$25,000
	4.31%	>	$50,000
Ohio		(c)	
Okla.	6.00%	>	$0
Ore.	6.60%	>	$0
	7.60%	>	$1,000,000
Pa.	9.99%	>	$0
R.I.	7.00%	>	$0
S.C.	5.00%	>	$0
S.D.		None	
Tenn.	6.50%	>	$0
Tex.		(c)	
Utah	5.00%	>	$0
Vt.	6.00%	>	$0
	7.00%	>	$10,000
	8.50%	>	$25,000
Va. (c)	6.00%	>	$0
Wash.		(c)	
W.Va.	6.50%	>	$0
Wis.	7.90%	>	$0
Wyo.		None	
D.C.	8.25%	>	$0

Other Taxes and Fees

Local taxing authorities and states also impose real estate taxes. Most homeowners of even modest houses pay several thousand dollars in such taxes. Landlords in turn pass there tax burden on to their tenants by charging higher rents. Local taxing authorities

also impose a variety of user fees and fines to produce revenue ranging from automobile license fees to traffic fines.

Taxation in Slovakia

In Slovakia, taxes are levied by the federal and local governments. Tax revenue stood at 29.5% of GDP in 2013. The most important revenue source for the federal government is the income tax, social security, value-added tax and corporate tax.

Income Tax

The income tax in Slovakia is levied at two different rates of 19% on income below 35,022,31 Euro and 25% above. A personal allowance of 3,803,33 Euro apply, which is phased out when yearly income hit 25% income tax bracket. In case of a non-working spouse a further allowance can be claimed.

Social Security Contributions

All employment income is mandated to pay into various social funds by law. In 2016 the rate for the employee is 13.4% and the employer contribution 35.2% of corresponding salary. Maximum monthly income base is 4.290 Euro.

Insurance policy	Max. monthly ceiling	Employee %	Employer %
Retirement Insurance	€4.290	4.0%	14.0%
Disability Insurance	€4.290	3.0%	3.0%
Sick Leave Insurance	€4.290	1.4%	1.4%
Unemployment Insurance	€4.290	1.0%	1.0%
Contribution into Reserve fund of the SIC	€4.290	0.0%	4.75%
Guaranty Insurance	€4.290	0.0%	0.25%
Injury Insurance	no limit	0.0%	0.8%
Health care Insurance	€4.290	4.0%	10.0%

Total in %		13.4%	35.2%

Value-Added Tax
The value-added tax (VAT) in Slovakia is levied at a rate of 20%, but is expected to fall back to 19% when the crisis is over. A lower rate of 10% is levied on medicine and certain books.

Corporate Tax
The corporate tax in Slovakia stood at 22% for 2014. Resident companies are those which have their legal seat or place of effective management in the Slovak Republic.

Tax Reform After the Soviet Era
From the time the collapse of the Soviet Union, a long range of range of reforms have been made, to bring the country from a government run economy to a free market economy. A large tax reform was enacted in the year 2003. It included a long range of reforms including abolishing most deductions on the income tax, and bringing it down to a flat rate of 19% instead of a progressive rate from 10% to 38%. The corporate tax fell from 25% to 19%. Furthermore, the two rates of VAT 14% and 20% were merged into one band of 19%. All inheritance and gift taxes was also abolished.

Road Tax and Toll
Road tax and toll payment in Slovakia is compulsory. These are paid for with vignettes, purchased for between one week to one year periods. Cost is determined by the weight of the vehicle. Additional costs are incurred for trailers attached to vehicles.

Vehicles Below 3.5 Tons
Persons travelling on a highway or speedway in Slovakia with a vehicle with maximum permissible total weight below 3.5 tons, are obliged to pay road tax by buying a vignette. There is a traffic sign on each border crossing informing about this obligation but no further reference within the country.

Types of Vignettes
Currently, there are 6 types of vignettes:

- Green - valid for 1 year
- Pink - valid for 30 days (including purchase date)
- Blue - valid for 7 days (including purchase date)

If a trailer category O1 or O2 is attached (to a tractor vehicle within the vehicle categories M1, N1 or N1G, and the maximum permissible weight of the vehicle and trailer exceed 3.5 tons, drivers have to buy additional vignette for heavy vehicle combinations.

- Purple - valid for 1 year (from January 1, 2011 until January 31, 2012)
- Orange - valid for 30 days (including pierced date)

- Yellow - valid for 7 days (including pierced date)

Prices

In 2011 the prices (including VAT) are the following:

- EUR 50 - green and purple vignette
- EUR 14 - pink and orange vignette
- EUR 7 - blue and yellow vignette

Vehicles Over 3.5 Tons

Since January 1, 2010 all vehicles above 3.5 tons maximum permissible total weight (including busses) must pay electronic toll when driving in Slovakia. Information about this obligation is stated by a traffic sign on each border crossing. Generally all main corridors (national roads) and highways are toll liable. A company named SkyToll A.S., runs a system based on a combination of GPS, GSM and DSRC technology. Each driver has to stop at one of the distribution points located on each border crossing used by heavy traffic and register the vehicle. The driver obtains an electronic on-board unit.

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3. *"VAT Live". VAT rate rise to 20%.*
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Tax Enforcement

Tax Cheating

Every society faces the problem that a certain percentage of their populace fails to pay the proper amount of tax. The compliance rate varies from country to country. Even the most compliant countries need an enforcement force to examine and collect from their noncompliant citizens.

IRS Study Provides Tax Gap Estimate for U.S.

Internal Revenue Service officials previously announced their estimates of the Tax Year 2006 tax gap based on the National Research Program (NRP). In May, 2016, the Internal Revenue Service released a new set of tax gap estimates for tax years 2008 t0 2010. The tax gap is defined as the amount of tax liability faced by taxpayers not paid on time.

Unlike prior tax gap estimates that pertain to a single tax year, these estimates reflect an estimated average compliance rate and associated average annual tax gap for the TY 2008–2010 timeframe. This approach was motivated by the decision to pool multiple years of compliance data from the annual individual income tax reporting compliance

component of the National Research Program (NRP) to provide greater reliability of individual income tax underreporting gap estimates by sources of noncompliance.

The gross tax gap is the amount of true tax liability that is not paid voluntarily and timely. The estimated gross tax gap is $458 billion. The net tax gap is the gross tax gap less tax that will be subsequently collected, either paid voluntarily or as the result of IRS administrative and enforcement activities; it is the portion of the gross tax gap that will not be paid. It is estimated that $52 billion of the gross tax gap will eventually be collected resulting in a net tax gap of $406 billion. The voluntary compliance rate (VCR) is a ratio measure of relative compliance and is defined as the amount of tax paid voluntarily and timely divided by total true tax, expressed as a percentage. The VCR corresponds to the gross tax gap. The estimated VCR is 81.7 percent. The net compliance rate (NCR) is a ratio measure corresponding to the net tax gap. The NCR is defined as the sum of “tax paid voluntarily and timely” and “enforced and other late payments” divided by “total true tax”, expressed as a percentage. The estimated NCR is 83.7 percent.

Study Summary

3.40 The following table summarizes the new estimates released in 2016, as compared to the 2011 estimates, with the total tax liabilities in each year.

Tax gap component	**Tax Year 2006 (*billions*)**	**Tax Years 2008-2010(billions)**
Total Tax Liabilities	$2,660	$2,496
Gross Tax Gap	$450 (83.1% compliance)	$458
Overall compliance rate	83.1%	81.7%
Enforcement and Late Payments	$65	$52
Net Tax Gap	$385 (85.5% compliance)	$206
Net Compliance rate	85.5%	83.7%

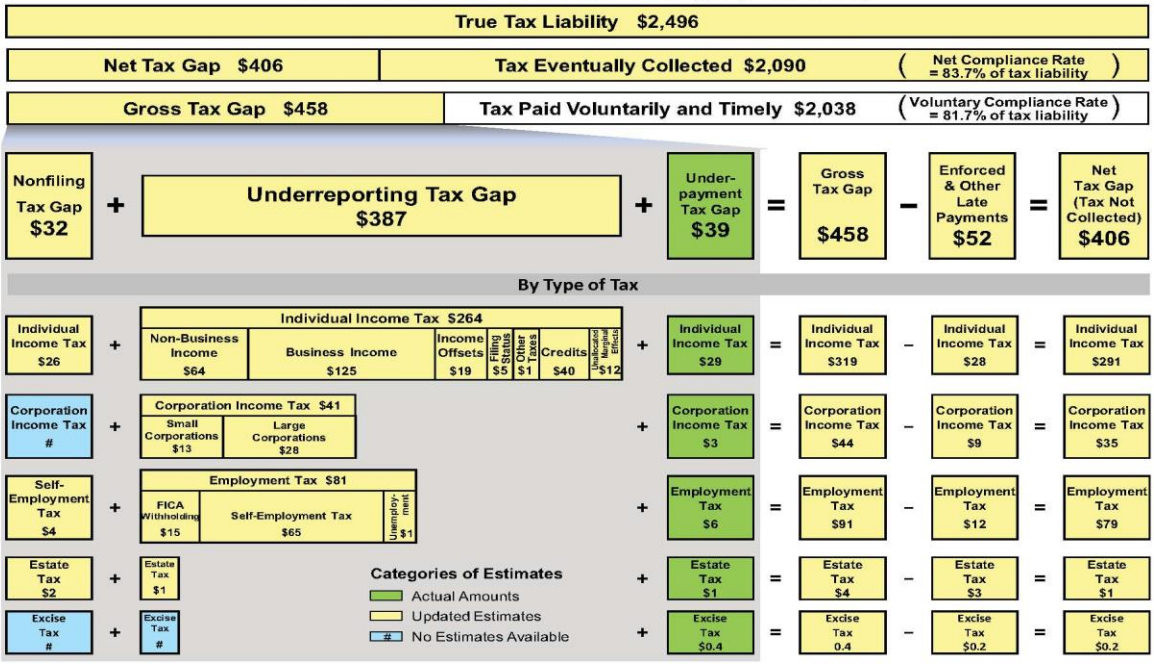
Tax Gap Components

The tax gap can be divided into three components: non-filing, underreporting and underpayment.

As was the case in 2001, the underreporting of income remained the biggest contributing factor to the tax gap in 2006. Under-reporting across taxpayer categories accounted for an estimated $376 billion of the gross tax gap in 2006, up from $285 billion in 2001. Tax non-filing accounted for $28 billion in 2006, up from $27 billion in 2001. Underpayment of tax increased to $46 billion, up from $33 billion in the previous study.

Overall, compliance is highest where there is third-party information reporting and/or withholding. Most wages and salaries are reported by employers to the IRS on Forms W-2 and are subject to withholding. A net of only 1 percent of wage and salary income was misreported. But amounts subject to little or no information reporting had a 56 percent net misreporting rate in 2006.

Tax Gap Map
Tax Year 2008-2010 Annual Average ($ Billions)



Internal Revenue Service, April 2016

Detail may not add to total due to rounding . Not to scale.

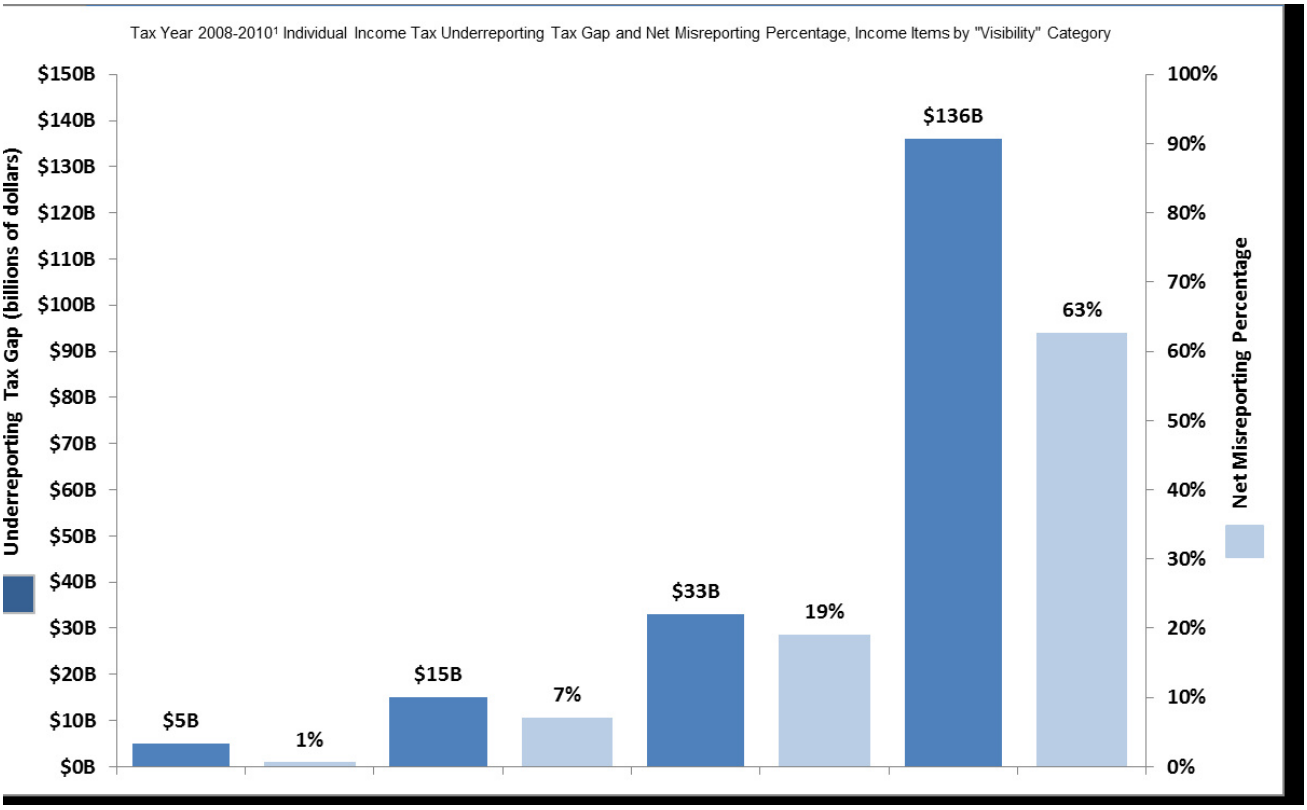

Tax Year 2008-2010¹ Individual Income Tax Underreporting Tax Gap and Net Misreporting Percentage, Income Items by "Visibility" Category
Underreporting Tax Gap (billions of dollars)
Net Misreporting Percentage
$150B
$140B
$130B
$120B
$110B
$100B
$90B
$80B
$70B
$60B
$50B
$40B
$30B
$20B
$10B
$0B
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
$5B
1%
$15B
7%
$33B
19%
$136B
63%

Table 2.Tax Year 2008–2010[1] Tax Gap Estimates
[Money amounts are in billions of dollars]

Tax Gap Component	TY 2008-2010[1]	Share of Gross Tax Gap
Estimated Total True Liability	**2,496**	
Gross Tax Gap	**458**	**100%**
Overall Voluntary Compliance Rate	**81.7%**	
Net Tax Gap	**406**	
Overall Net Compliance Rate	**83.7%**	
Nonfiling Gap	**32**	**7%**
Individual Income Tax	26	6%
Self-Employment Tax	4	1%
Estate Tax	2	[2]
Underreporting Gap	**387**	**85%**
Individual Income Tax	**264**	**58%**
Non-Business Income	64	14%
Business Income	125	27%
Income Offsets (Adjustments, Deductions, Exemptions)	19	4%
Filing Status	5	1%
Other Taxes	1	[2]
Unallocated Marginal Effects	12	3%
Credits	40	9%
Corporation Income Tax	**41**	**9%**
Small Corporations (assets under $10M)	13	3%
Large Corporations (assets of $10M or more)	28	6%
Employment Tax	**81**	**18%**
Self-Employment Tax	65	14%
FICA and Unemployment Tax	16	3%
Estate Tax	1	[2]
Underpayment Gap	**39**	**9%**
Individual Income Tax	29	6%
Corporation Income Tax	3	1%
Employment Tax	6	1%
Estate Tax	1	[2]
Excise Tax	[3]	[2]

Detail may not add to total due to rounding.
[1] The estimates are the annual averages for the Tax Year 2008-2010 timeframe.
[2] Less than 0.5 percent.

The Dirty Dozen

Each year the IRS releases the dirty dozen tax scams, a list of the 12 most prevalent tax scams consumers need to be aware of. **Here is a recap of the 2018 "Dirty Dozen" scams:**

Phishing: Taxpayers need to be on guard against fake emails or websites looking to steal personal information. The IRS will never initiate contact with taxpayers via email about a bill or refund. Don't click on one claiming to be from the IRS. Be wary of emails and websites that may be nothing more than scams to steal personal information.

Phone Scams: Phone calls from criminals impersonating IRS agents remain an ongoing threat to taxpayers. The IRS has seen a surge of these phone scams in recent years as con artists threaten taxpayers with police arrest, deportation and license revocation, among other things.

Identity Theft: Taxpayers need to watch out for identity theft especially around tax time. The IRS continues to aggressively pursue the criminals that file fraudulent returns using someone else's Social Security number. Though the

agency is making progress on this front, taxpayers still need to be extremely cautious and do everything they can to avoid being victimized.

Return Preparer Fraud: Be on the lookout for unscrupulous return preparers. The vast majority of tax professionals provide honest high-quality service. There are some dishonest preparers who set up shop each filing season to perpetrate refund fraud, identity theft and other scams that hurt taxpayers.

Fake Charities: Be on guard against groups masquerading as charitable organizations to attract donations from unsuspecting contributors. Be wary of charities with names similar to familiar or nationally known organizations. Contributors should take a few extra minutes to ensure their hard-earned money goes to legitimate and currently eligible charities. IRS.gov has the tools taxpayers need to check out the status of charitable organizations.

Inflated Refund Claims: Taxpayers should be on the lookout for anyone promising inflated refunds. Be wary of anyone who asks taxpayers to sign a blank return, promises a big refund before looking at their records or charges fees based on a percentage of the refund. Fraudsters use flyers, advertisements, phony storefronts and word of mouth via community groups where trust is high to find victims.

Excessive Claims for Business Credits: Avoid improperly claiming the fuel tax credit, a tax benefit generally not available to most taxpayers. The credit is usually limited to off-highway business use, including use in farming. Taxpayers should also avoid misuse of the research credit. Improper claims often involve failures to participate in or substantiate qualified research activities and/or satisfy the requirements related to qualified research expenses.

Falsely Padding Deductions on Returns: Taxpayers should avoid the temptation to falsely inflate deductions or expenses on their returns to pay less than what they owe or potentially receive larger refunds. Think twice before overstating deductions such as charitable contributions and business expenses or improperly claiming credits such as the Earned Income Tax Credit or Child Tax Credit.

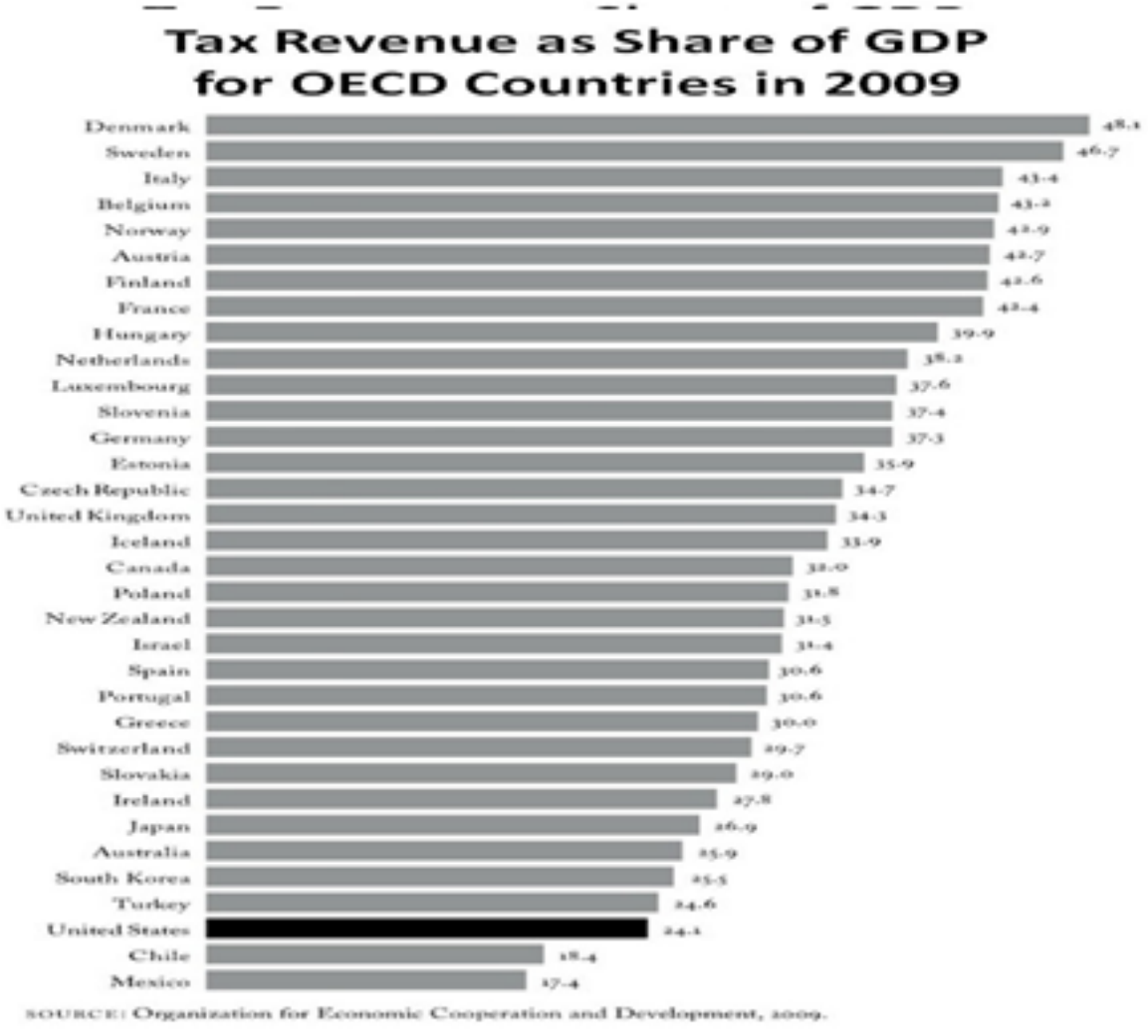
Falsifying Income to Claim Credits: Don’t invent income to erroneously qualify for tax credits, such as the Earned Income Tax Credit. Taxpayers are sometimes talked into doing this by con artists. Taxpayers should file the most accurate return possible because they are legally responsible for what is on their return. This scam can lead to taxpayers facing large bills to pay back taxes, interest and penalties. In some cases, they may even face criminal prosecution.

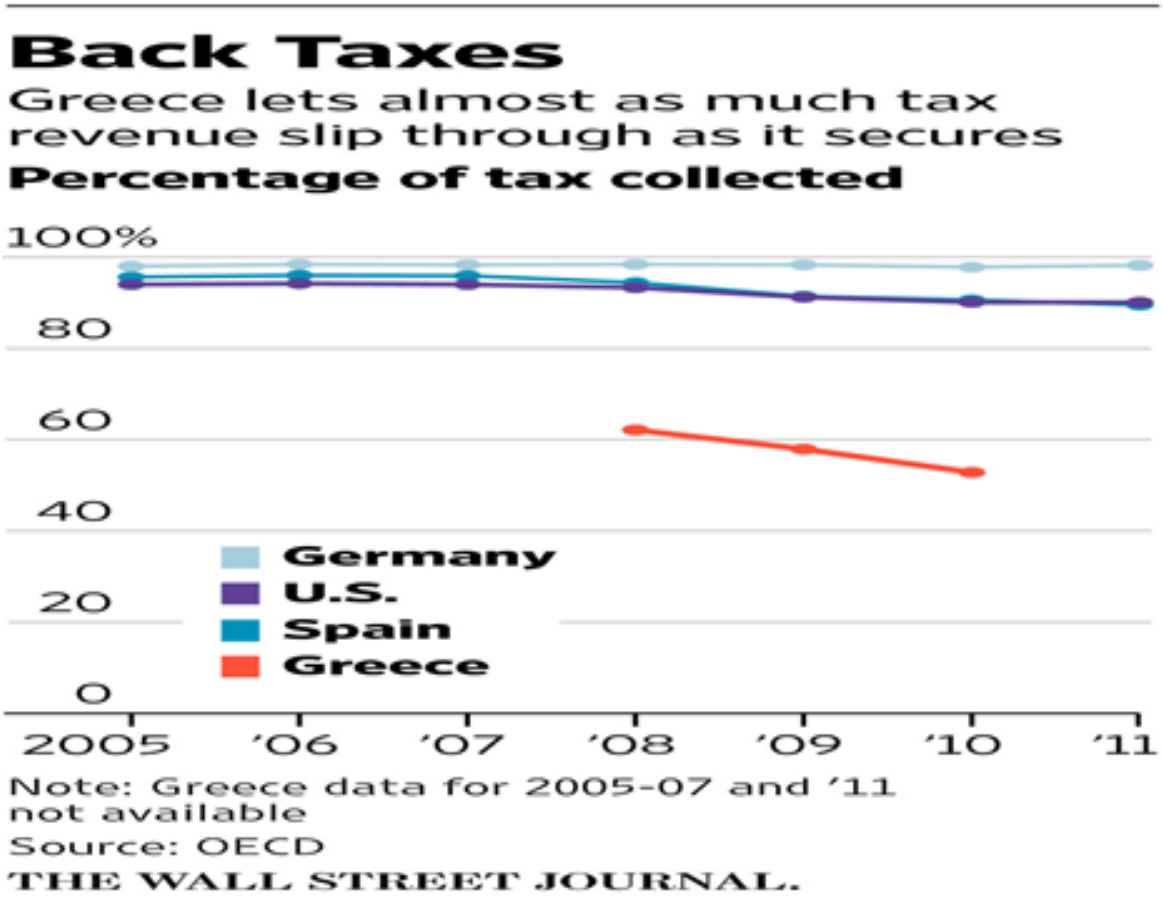
Abusive Tax Shelters: Don’t use abusive tax structures to avoid paying taxes. The IRS is committed to stopping complex tax avoidance schemes and the people who create and sell them. The vast majority of taxpayers pay their fair

share, and everyone should be on the lookout for people peddling tax shelters that sound too good to be true. When in doubt, taxpayers should seek an independent opinion regarding complex products they are offered.

Frivolous Tax Arguments: Don't use frivolous tax arguments to avoid paying tax. Promoters of frivolous schemes encourage taxpayers to make unreasonable and outlandish claims even though they have been repeatedly thrown out of court. While taxpayers have the right to contest their tax liabilities in court, no one has the right to disobey the law or disregard their responsibility to pay taxes. The penalty for filing a frivolous tax return is $5,000.

Offshore Tax Avoidance: The recent string of successful enforcement actions against offshore tax cheats and the financial organizations that help them shows that it's a bad bet to hide money and income offshore. Taxpayers are best served by coming in voluntarily and getting caught up on their tax-filing responsibilities. The IRS offers the Offshore Voluntary Disclosure Program to enable people to catch up on their filing and tax obligations.



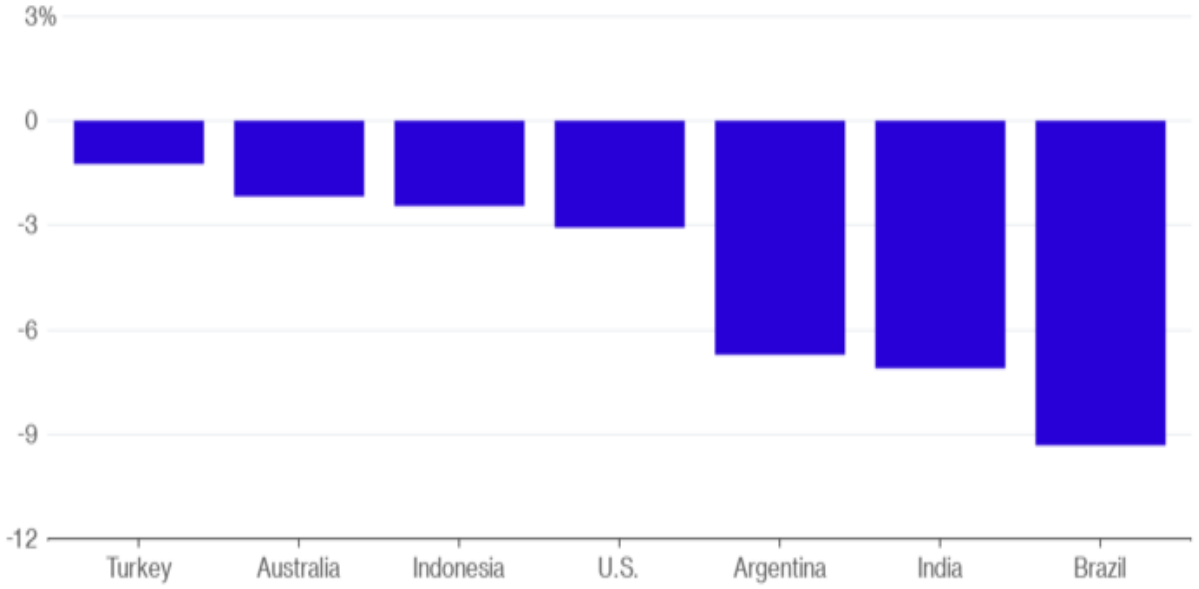


Personal Income Tax Compliance Rates

- United States: 83.1%
  United Kingdom: 77.97%
  Switzerland: 77.70%
  France: 75.38%
  Austria: 74.80%
  Netherlands: 72.84%
  Belgium: 70.15%
  Portugal: 68.09%
  Germany: 67.72%
  Italy: 62.49%

Minding the Gap

Nominal budget balance in 2015, as a percentage of GDP

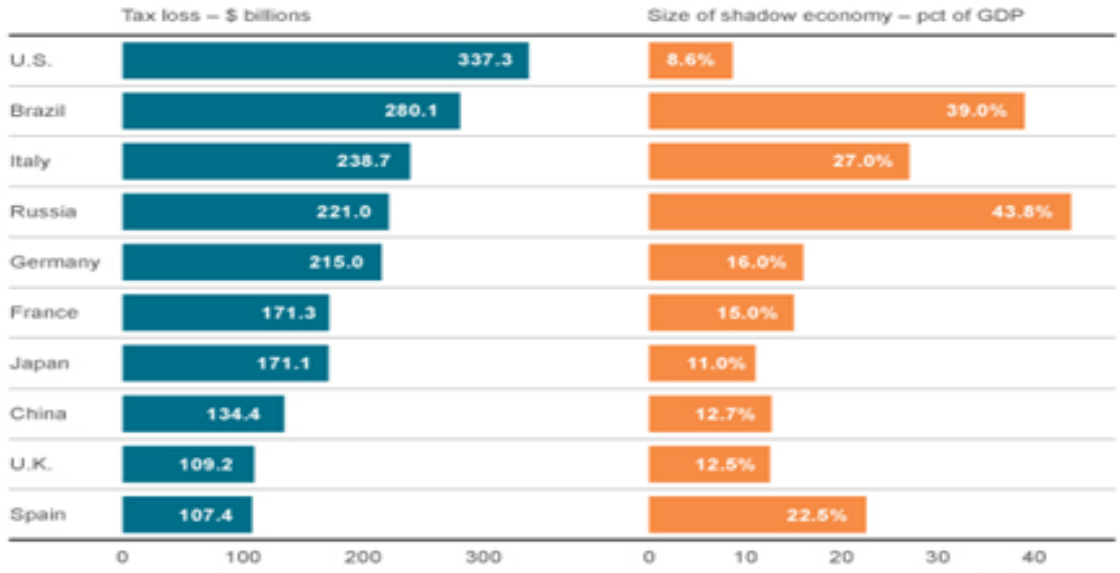


Source: International Monetary Fund World's Economic Outlook Database, April 2016

Bloomberg

Ten countries with the largest tax evasion

Comparing a World Bank Report to a Heritage Foundation report, British accountant Richard Murphy estimated global tax evasion at 5 percent of the global economy and found that these ten countries had the largest absolute levels of evasion.



Source: Richard Murphy, Tax Justice Network

REUTERS

Reuters graphic/Stephen Culp 12/12/11

Top 10 Countries Losing to Tax Evasion				
COUNTRY	GDP ($ MILLIONS)	SIZE OF SHADOW ECONOMY (%)	TAX BURDEN OVERALL (%)	TAX LOST AS A RESULT OF SHADOW ECONOMY ($ MILLIONS)
U.S.	14,582,400	8.6%	26.9%	337,349
Brazil	2,087,890	39%	34.4%	280,111
Italy	2,051,412	27%	43.1%	238,723
Russia	1,479,819	43.8%	34.1%	221,023
Germany	3,309,669	16%	40.6%	214,996
France	2,650,002	15%	44.6%	171,264
Japan	5,497,813	11%	28.3%	171,147
China	5,878,629	12.7%	18%	134,385
U.K.	2,246,079	12.5%	38.9%	109,216
Spain	1,407,405	22.5%	33.9%	107,350
Source: Tax Justice Network				

Enforcement Activities

The IRS has an extensive enforcement system. It audits the returns of over a million taxpayers per year. It pursues aggressive enforcement actions including levy and seizure of property from those who fail to timely pay their taxes. It pursues criminal prosecution of its least compliant citizens. Although Congress cut the IRS budget over

the last several years reducing its level of enforcement, those who come under investigation face a vigorous and well trained enforcement force.

IRS EXAMS

IRS Reorganization

Under reorganization, the IRS eliminated its regional and district offices and replaced them with four divisions: Wage and Investment Income, Small Business & Self-Employed, Large & Mid-Size Business (now known as Large Business and International) and Tax Exempt & Government Entities. Headquarters locations have been set up in Maryland for the Small Business & Self-Employed Division and in Washington, DC for the Tax Exempt & Government Entities Division. Atlanta, GA is the headquarters for the Wage and Investment Income Division, and Washington, DC is the headquarters for the Large Business & International Division.

Overall Rates

As the overall audit rates for different income classes are shifting, the proportion of individual taxpayers who faced any kind of audit--either the more rigorous field audits or the semi-automated Compliance Center audits--dropped to its lowest rate in modern history, just under one percent (0.49%) in 2001 and it was about .9% in 2014

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How Returns Are Selected for Examination

The IRS selects returns using a variety of methods, including:

Potential participants in abusive tax avoidance transactions — Some returns are selected based on information obtained by the IRS through efforts to identify promoters and participants of abusive tax avoidance transactions. Examples include information received from “John Doe” summonses issued to credit card companies and businesses and participant lists from promoters ordered by the courts to be turned over to the IRS.

Computer Scoring — Some returns are selected for examination on the basis of computer scoring. Computer programs give each return numeric “scores”. The Discriminant Function System (DIF) score rates the potential for change, based on past IRS experience with similar returns. The Unreported Income DIF (UIDIF) score rates the return for the potential of unreported income. IRS personnel screen the highest-scoring returns, selecting some for audit and identifying the items on these returns that are most likely to need review.

Large Corporations — The IRS examines many large corporate returns annually.

Information Matching — Some returns are examined because payer reports, such as Forms W-2 from employers or Form 1099 interest statements from banks, do not match the income reported on the tax return.

Related Examinations — Returns may be selected for audit when they involve issues or transactions with other taxpayers, such as business partners or investors, whose returns were selected for examination.

Other — Area offices may identify returns for examination in connection with local compliance projects. These projects require higher level management approval and deal with areas such as local compliance initiatives, return preparers or specific market segments.

Examination

The Examination Division administers an audit program involving the selection and examination of all types of federal tax returns to determine correct liabilities due from taxpayers. Examinations are conducted either through interviews or correspondence. Many audits are conducted via correspondence from Compliance Center Tax Examiners. Each Area Office has Tax Compliance Officers (TCO) and Revenue Agents (RA) assigned to conduct audits. The TCO's are not accountants. Revenue Agents in field audits are required to have at least 30 semester hours of accounting. The respective Compliance Officers and/or Revenue Agents are assigned to groups of 10 to 12 persons managed by a Group Manager. The Group Manager reports to a Territory Manager who will be in charge of four to five groups in an area. That Territory Manager reports directly to the Area Manager for Examination.

Types of Examinations

The IRS utilizes several different examination techniques to determine the accuracy of tax returns. At the Compliance Center, computers are utilized to verify the computations shown on each return. If it is determined that the computations are incorrect on a return, a notice is issued to the taxpayer adjusting the amount of taxes due on the return. The Compliance Centers also conduct correspondence audits on issues by initiating letters to taxpayers requiring verification of deductions and/or exemptions shown on a return. Office audits of simpler 1040 returns are conducted in local Area Offices. Field examinations are conducted by Revenue Agents of more complex 1040 returns and other types of tax returns.

Compliance Center Audits

Compliance Centers conduct most correspondence audits. Some of these audits are generated as a result of information return matches. When the Compliance Center receives 1099s and W-2's, it matches them with a return. If there is an indication that not all income has been reported, a letter known as a CP-2000 will be issued to the taxpayer. This letter requests that the taxpayer explain why particular income items were not reported on his return. The taxpayer may request that the matter be transferred to a local Area Office for consideration. Compliance Centers also conduct audits of other items which can be easily explained via mail.

Mathematical Errors

Each return received by a Compliance Center is checked for mathematical errors. If there is an apparent mathematical error, the Compliance Center computer will issue a notice to the taxpayer that the amount due on the respective return has been corrected because of the error. A notice is not a deficiency notice where it is based solely upon a mathematical or clerical error appearing on the return. The taxpayer has 60 days after the notice to file a request for abatement for the assessment.

Document Matches
Many IRS correspondence audits are the result of document matches. Once the information from 1099s and W-2s is encoded into the IRS computers, the IRS is able to conduct a matching of the information documents with income tax returns. If such matches indicate certain 1099s and/or W-2s have been omitted from a taxpayer's return, a CP-2000 notice is issued to the taxpayer requesting an explanation of the omission. If the taxpayer fails to fully respond to the notice, the IRS will issue an adjustment notice.

Correspondence Audits
The Compliance Center computers are programmed to select those returns with high DIF scores which reflect issues that could be easily resolved by mail. The computers select those returns which are appropriate for correspondence audits and each respective return is reviewed by either a Tax examiner or clerk. The returns are DIF screened and quality reviewed using technically proficient examination personnel who are experienced in DIF screening operations. Returns which have apparent examination issues other than those appropriate for correspondence audit are referred to the local Area Office. Some examples of the kinds of items which can be verified by correspondence are itemized deductions, such as interest, taxes, contributions, medical expenses, and simple miscellaneous deductions such as union dues and small tools.

Correspondence Audit Procedures
When a return has been selected for a correspondence audit, the IRS has developed a series of computer generated notices with respect to various issues on a tax return. Once a reviewer has determined an issue for examination, he will cause the computer to generate the appropriate notice for that issue. The IRS notice will grant the taxpayer 30 days to respond to the notice.

Taxpayer Reply
When a taxpayer responds to a correspondence examination notice, his response is processed by a first read section at the Compliance Center which attempts to determine the nature of his response. The Internal Revenue Manual provides that taxpayer replies should be processed within 30 days, but practitioners have found that in many instances the processing time far exceeds 30 days [IRM 4.71.11]. If the section determines that the reply from the taxpayer has an adequate explanation of items questioned, it is forwarded to a Tax Examiner for review. If the explanation is satisfactory, the return will be accepted without change. If the explanation is not satisfactory, the Service will issue a Notice of Deficiency advising the taxpayer of the proposed tax change. [IRM 4.19.13.14]

Office Audits
Most office audits are of income tax returns which indicate under $100,000 in total positive income. Most involve deductions taken on Schedule A, simple Schedule C and simple Schedule E. The vast majority of audits conducted for taxpayers having total positive income of less than $100,000 are conducted by Compliance Officers. Because

of the poor training of Compliance Officers and the large volume of cases, results can vary greatly from one audit to another.

Initiation of Office Audits
The office audit commences with a notice to the taxpayer requesting his appearance at an IRS office on a certain date. The letter will list a series of documents which the taxpayer must bring to the audit. When the letter arrives for an office audit, you may request that a proposed audit date be changed to a date more convenient for your schedule.

Initial Interview
The IRS considers the initial interview to be the most important part of the examination process. The taxpayer has the right to have a representative at the interview and the Service may not require a taxpayer to accompany an authorized representative to an examination interview in the absence of an administrative summons [IRC Sec. 7521(c)]. Only in rare instances should the taxpayer accompany the representative to an interview.

Pro Forma Audit Aids
The Service has developed pro forma audit aids for use by Tax Auditors on the following frequently examined items:

1. Miscellaneous deductions;
2. Taxes;
3. Interest expenses;
4. Medical expenses;
5. Casualty losses;
6. Moving expenses;
7. Contributions;
8. Rental income and expenses.

Compliance Officers must use the pro forma forms when examining any of the above issues. The aids are designed to promote uniformity in examination technique and as a checklist for documentation.

Scope of Audit
The scope of an office audit is generally much more limited than a field examination. Examiners are generally expected to only audit issues raised by the classification section of the IRS. In most cases, the Auditor must secure Group Manager approval prior to opening new issues during the audit.

Discretion of Auditor
TCO's are given great discretion as to the standard of proof required to support questioned items. For example, one TCO might accept only cancelled checks as support for an expense, whereas another might literally accept an oral statement to support an expense. You can best represent you client by properly organizing all of

his/her records which support the deductions and expenses under audit by the IRS. Compliance Officers are given a very limited amount of time to complete their examination. The more thorough and well organized your client's records, the better the chance that you can prevent or reduce deficiencies. Because there is a great degree of discretion granted to an Auditor, you should attempt to develop a rapport with him at the outset.

Office Audit Issues
Travel and entertainment expenses are always a favorite target of the IRS during audits. The Office Auditor will look at the travel expenses to be sure that they were necessary to the taxpayer's occupation. With respect to entertainment expenses, the IRS will review the record system, if any, of the taxpayer. If these records are not available, then some supporting documentation must be supplied in order to preserve your client's deduction for travel and entertainment expenses. Receipts, affidavits, charge account records, and other supporting documents may preserve the deduction.

Automobile Expenses
Automobile expense are an issue in many audits. The Office Auditor will look at the records maintained by the client to assure that they meet the standard of adequacy. He will also try to contest the amount of personal use of the automobile by the taxpayer.

Contributions
Contribution deductions have always been a favorite target of the office audit. Compliance Officers will seek to determine if payments were made to qualified organizations. They will also look at the nature of the taxpayer's documentation.

Casualty and Theft Losses
The IRS has always been prone to disallow casualty and theft losses. Compliance Officers continually hear stories regarding the alleged flood or fire which caused substantial losses. The taxpayer will be required to submit police and/or fire reports to support the claimed deduction. The taxpayer also must establish the value of the lost items.

Educational Expenses
Educational expenses are an area of great scrutiny by the IRS. The Service will seek to determine if expenses were primarily incurred for the purposes of maintaining or improving skills or meeting express requirements or retention of status.

Interest Expenses
When auditing interest expenses, the Service will verify the amount claimed and determine if the deduction was taken in the proper year. The Service will also seek to determine whether the payments are for interest or for some other item such as discounts. Compliance Officers will request the supporting documents concerning the loan including the loan contract and other loan documents.

Field Audits

Revenue Agents are accountants and have at least 30 credit units of accounting. They are much better trained than Compliance Officers. Field Agents are responsible for auditing high income non-business and business 1040 returns. Field Agents also conduct almost all of the audits of corporate tax returns. Normally, a Revenue Agent will audit more than one year at a time. For example, if 2012 is being audited, 2013 and 2014 may also be brought into the audit. On business audits, a field audit puts particular emphasis on determining whether all income was properly reported on the tax return. The Revenue Agent will review deposits to checking and savings accounts for the years at issue. He will also look at the disbursements form those accounts. Revenue Agents put more emphasis on the quality of records and methods of accounting than TCO's. They will consider all of the deposits to a bank account as income unless the taxpayer is able to show that the funds came from bank transfers, loan proceeds, repayment of notes receivable, gifts and/or insurance proceeds. Revenue Agents tend to shift the burden for establishing these matters to the taxpayer. They also will raise specific accounting issues to be resolved during the audit.

Unreported Income

In business audits, the primary focus is to find unreported income. Two methods are used to find unreported income: (a) cash reconciliation, and (b) net worth method. The cash reconciliation method requires all bank statements and savings deposit passbooks be analyzed for income and expenses. The Revenue Agent will analyze all deposits and compare those deposits to gross income reported on the tax return. He will then discount for non-taxable sources of income and transfer of funds between various accounts. A second method of determining under-reporting of income is the net worth method. This method requires analysis of the changes in the net worth of the taxpayer and a comparison of changes in income reported on the tax return.

Examination Using Social Media

News reports in the spring of 2010 that the IRS is now training its revenue agents to gather information on Facebook and other social media sites. The IRS documents clearly state that employees are not allowed to use false identities to scour social networking accounts while conducting a probe into a taxpayer. Social networks can also be used to "provide location information," to "prove and disprove alibis" or to "establish crime or criminal enterprise." Some people disclose a surprising amount of information about their finances on the sites including employment and income info.

IRS Guidelines

The IRS has set up the following guidelines for internet research on taxpayers:

> You are required to conduct internet searches to determine taxpayer ecommerce activities.
>
> Generally, you are allowed to review information from publicly accessible, unrestricted websites.

You are not permitted to:

Disclose sensitive information, such as a TIN, without authorization from your manager.

Misrepresent your identity or obtain information from a website using a fictitious identity to register.

Sign contracts on behalf of the government by assenting to online agreements.

Financial Status Examinations
The IRS has trained all of its agents on techniques known as Financial Status Audits (also known as Economic Realty Audits). These audits emphasize looking at the taxpayer's lifestyle. Using a T account method, the agent will attempt to reconstruct the taxpayer's total expenditures in relations to known sources of income. To the extent that the taxpayer's expenditures exceed known sources of income the Internal Revenue Service will assume that the taxpayer under reported income.

IRS Must Prove Statistically Computed Income
When the IRS uses statistical information from unrelated taxpayers solely to reconstruct an individual taxpayer's income (such as found in life-style or financial status audits), the burden of proof is also on the IRS with respect to the income items reconstructed (Act §3001(b), Code §7491(b)).

Location of Audit
Generally, a Field Agent conducts an examination of the taxpayer's place of business. The authors recommend that the taxpayer request that the audit be conducted at the practitioner's office. By conducting the audit at the practitioner's office the Agent will not gain the extraneous information which becomes available to him via observing the day-to-day operations of the client's business.

Agent's Interview
The best way to represent your client at the audit interview is to give the impression that you know what you are doing and that you are fully organized. IRS Agents tend to be the harshest on persons who are disorganized. When you appear at the audit, have your client's records organized in a logical fashion and be able to support those deductions that are at issue. If adequate records do not exist, have the alternative documents which support the respective deductions and expenses. Research complex issues in tax reporters prior to appearing at the audit if you anticipate a particular issue will be raised by the Agent. Don't volunteer information. You should maintain a professional demeanor during the discussions with Revenue Agents.

FedState Initiative Procedures
FedState initiatives are developed and shared using a common format (template) that is available from Regional FedState Program Managers, the National Office FedState Relations, and the FedState web page. Using the template to guide initiative development enables a business case proposal to be developed for projects that should be replicated nationwide.

Abusive Schemes And Promoter Investigations
IRS efforts to combat abusive schemes and scams. Abusive Scheme Groups have been established in each Area and the use of Fraud Specialists will increase. To identify and address promoter activity, a Promoter Lead Development Center has been created. The Center systematically monitors the Internet to identify promoters of abusive activities and develops cases for injunctive investigations.

Unreported Income
Unreported income represents the largest component of the tax gap. IRS has developed a new tool for identifying returns with a high probability of unreported income. The new tool is known as Unreported Income Discriminant Index Formula (UI DIF). All individual returns have traditionally been assigned a DIF score rating the probability of inaccurate information on the return. The new UI DIF score rates the probability of income being omitted from the return. UI DIF gives the IRS the ability to systemically identify returns at high risk for unreported income and beginning this fall all returns will receive a UI DIF score in addition to the traditional DIF score.

Abusive Preparers
The IRS is placing increased emphasis on pursuing perceived abusive preparers both civilly and criminally. Each IRS area now has an abusive preparer coordinator who assists agents in identifying and pursuing bad preparers. Once the IRS identifies a potential abusive preparer it uses a range of methods to pursue her. It normally pulls a sample of 30 of that preparer's returns and reviews them.

Small Businesses
IRS NRP audits have found small businesses are the least compliant group of taxpayers. The Service is placing increased emphasis in finding and auditing businesses that fail to report all of their revenue. The Service sources that range from informants, to newly revised UIDIF standards, industry projects, CTR's and SAR's to find unreported income. Its agents have received extensive training in ferreting out missing income.

Audit Techniques Guides (ATGs)
The IRS now trains its agents on specific audit techniques for different industries and issues. The Audit Techniques Guides (ATGs) focus on developing highly trained examiners for a particular market segment. The IRS relies heavily on these guides to assure consistency in its audits. These ATGs contain examination techniques, common and unique industry issues, business practices, industry terminology and other

information to assist examiners in performing examinations. The guides below can be viewed at the IRS website address

Indirect Methods
When the taxpayers' records are not available or are inadequate the examiner may consider the use of the following indirect methods:

- Bank deposit analysis
- Fully developed cash T method
- Source and application of funds
- Net worth method
- Percentage of markup method
- Unit and volume method

The following is a synopsis of the indirect methods and the supporting court cases. If any of these methods rely on estimates, they must be corroborated by other methods to establish a stronger position.

Bank Deposits Method
When tracing cash through a bank deposit analysis or using the source and application of funds method, several unique facets of the operations should be recognized.

- Cash payouts are not deposited, but the money used to make the cash purchases originated from sales. This is cash that would not be deposited into a bank account and must be added back to the bank deposit analysis.
- In a restaurant business cash payment of employee credit card tips is money that is not deposited, but originated from sales. Again, this cash must be added back to the bank deposit analysis.
- Sales tax collected from customers for cash sales is money deposited that is not a source of income. In many states the sales tax for restaurants and bars is higher than the sales tax for other retail businesses.
- Cash collected from vending machines is cash that needs to be deposited and included in gross receipts. If significant coin and currency deposits are not found on the deposit slips the examiner may need to determine the amount of income from this source and add it to the bank deposit analysis.
- Credit card payments from credit card companies for sales will include deposits of employee tips plus the sales taxes plus the sale. Only the portion representing the sale is taxable.
- Loans from shareholders are a non-taxable source of cash. Proof of payment is necessary to establish facts.
- Transfers between bank accounts are non-taxable.

The bank deposit analysis method assumes that the business owner deposits all income in a bank account. In a cash-intensive business such as a bar or restaurant, this

may not be the case. For that reason, the bank deposits analysis should generally be supplemented with another indirect method when auditing a bar or restaurant.

Use of Another Method to Support an Indirect Method

To further support an indirect method another examination technique may be used such as having the examiner inspect the supply invoices to find the name of the company that prints the guest checks. This printing company can provide the number of guest checks purchased by the restaurant in a year. A projected income can then be determined from the average amount of the guest check times the number of checks. If these methods are used in combination, they strengthen the case.

In examining a bar, it is possible that the bar owner may remove cash from his or her drawer, purchase liquor off the shelf of a store, sell the drinks in his or her establishment and pocket the profits. (In most states this practice is illegal and bar owners cannot purchase liquor off the shelf or in discount stores.) In such case, there may be no indication in the books that anything is wrong as neither the invoice nor the income touches the books. An indirect method may uncover this.

Specific Items Method of Determining Income: IRM 4.10.4.5.1

Before we begin analysis of indirect methods we should discuss the specific items methods. This method is preferable to an indirect method as it is based upon direct evidence of income. For example, a restaurant owner may receive rebates from a supplier. A copy of the supplier's invoices and cancelled checks establishes the amount of income from these rebates. The specific items method relies on evidence gathered from source documents, rather than estimates. If records cannot be obtained from the taxpayer, IRS may contact third parties

The specific items method of establishing income, supplemented by the bank deposit method, is illustrated in Ketler v. Commissioner, T.C. Memo. 1999-68. During 1990 and 1991, Warren Ketler operated two sole proprietorships, including a catering operation doing business as California Barbecue. Mr. Ketler failed to file Federal income tax returns for 1990 and 1991. The Service determined Mr. Ketlers unreported income for these years by reference to Forms 1099 provided by payers. Prior to trial, the Service obtained 1990 and 1991 bank records for all of Mr. Ketlers accounts and identified various nontaxable transfers and deductible business expenses. Based on this analysis, the Service asked that the Tax Court find increased income tax deficiencies. After trial, the Tax Court found that Mr. Ketler received the income reflected on the Forms 1099. It also found that the Service had properly performed the bank deposits analysis, and, therefore, Mr. Ketler was also liable for increased income tax deficiencies.

Kikolos v. Commissioner, T.C. Memo 2004-82, involved liquor store owners, Nick and Helen Kikalos. At the end of each day Mr. Kikalos would receive a bag from his store containing receipts which, among other things, included the cash register tapes (known as "Z tapes") from the store. The Z tapes from these store registers would have allowed for an accurate calculation of the Kikalos' gross income. However, after entering the information in his log books, Mr. Kikalos threw away all of the Z tapes.

When IRS used a mark-up percentage to figure accurate gross receipts, the Kikaloses wanted to use a different indirect method and filed their petition in court. The court said that arithmetic precision was originally and exclusively in the hands of the Kikaloses, who had simply to keep their papers and data. Having defaulted in this duty, they cannot, in essence, "frustrate the Commissioner's reasonable attempts by compelling investigation and re-computation under every means of income determination." The Court said that other indirect methods of estimating the Kikalos' income are not relevant.

Quoting the Fifth Circuit, the court stated, "While the absence of adequate records "does not give the Commissioner carte blanche for imposing Draconian absolutes," such absence does weaken any critique of the Commissioner's methodology. Webb v. Commissioner, 394 F.2d 366, 373 (5th Cir. 1968).The court said, "Indirect methods are by their very nature estimates and courts reject the notion that the IRS should have checked their calculations by other methods."

Bank Deposit Analysis: IRM 4.10.4.3.3.6

A bank deposit analysis (BDA) is used to identify deposits that may be taxable, to determine if business expenses were paid from other sources and to determine if business and personal accounts were co-mingled. The deposited items will show whether cash is deposited.

The examiner will analyze the deposits and reconcile nontaxable deposit sources, comparing the total deposit with the reported gross income. If the retail business is cash intensive, where a significant amount of receipts are not deposited and there are many expenses paid with un-deposited cash, a bank deposit analysis would not be a good indirect method for proving income. However the total known deposits should be added to cash expenditures to show the total amount of funds used.

This method is best for retailers whose books are unreliable, but who make periodic bank deposits and pays expenses by check.

The bank deposits method of establishing income is illustrated in Ng v. Commissioner, T.C. Memo. 1997-248. From 1986 through 1990, Big Hong Ng owned interests in several business entities, including various restaurants. Ms. Ng controlled several bank accounts in the United States and Hong Kong. She commingled her personal funds with those of the business entities in which she had an interest. The Service conducted a bank deposit analysis and determined that Ms. Ng failed to report significant amounts of taxable income during the years in issue.

In analyzing the bank deposits, the Service separated cash, checks, cashier's checks and wire transfers. It examined the source of each deposit and separated items subject to self-employment tax from those not subject to such tax. Further, to the extent possible, the Service eliminated those items that had been reported on Ms. Ng's income tax returns or that came from nontaxable sources (for example, transfers and refinancing proceeds). The Service also analyzed Ms. Ng's cash expenditures. The expenditures that could not be traced to a nontaxable source or reported income were considered unreported income.

Source and Application or Cash T: IRM 4.10.4.6.4
This method analyzes cash flows in comparison to all known expenditures, and shows that if there are excess expense items (applications) over income items (sources) an understatement of taxable income exists. These methods may be useful for a retail business that has unreported sources of income and when business and personal expenses can be verified.

Markup Method: IRM 4.10.4.6.5.
This method reconstructs income based on the use of percentages or ratios for the type of retail business. For example, the examiner would determine the industry markup for a particular type of retailer and apply that markup percentage to the verified cost of goods sold of the taxpayer under examination.

Alternately, the examiner can use the taxpayer's own markup percentages, if possible. A 'shelf test' can be performed where the current sales prices can be compared to the cost of those items to determine the markup percentage. This will be effective if there are only a few types of purchases or only a few suppliers of goods, such as for a gasoline retailer.

This method works well for a business that is cash intensive or one that does not use bank accounts to deposit receipts, or for a taxpayer where total expenditures (such as personal expenses) cannot be determined. This method is also recommended when inventories are present, but records are unreliable.

Percentage Markup Method of Determining Income: IRM 4.10.4.6.6
IRM 4.10.4.6.6.2 states that the percentage markup method is recommended in the following situations:

1. When inventories are a factor and the taxpayer has nonexistent or inadequate records

2. Where a taxpayer's cost of goods sold or merchandise purchased is from one or two sources and these sources can be ascertained with reasonable certainty and there is a reasonable degree of consistency as to sales prices.

The following are considered when applying the percentage of markup method:

- Judgment should be exercised by examiners to make sure the comparisons are made to situations that are similar to those under examination
- The availability of valid sources of information containing the necessary percentages and ratios
- Complexity of the taxpayer's product mix and the availability of valid percentages and ratios for each product
- Length of the period covered during the examination and the need to adjust the percentages and ratios to reflect those existing during the examination

Computations in the Percentage of Markup Method

Possible daily volume X Average check per seat = Daily sales

The possible daily volume would be the number of seats in the establishment X how many times in a day they are occupied. The possible daily volume can be broken down into time periods in a day (breakfast, lunch, or dinner) to get a more accurate tally. The average check per seat can be obtained from the taxpayer during the initial interview or from examining the sales tickets.

The daily sales can be extended to weekly and yearly sales based on the days open per week and the weeks open per year.

Daily sales X Days open in a week = Weekly sales

Weekly sales X Weeks open in a year = Yearly sales

These estimates should take into account the number of vacant seats and people who walk out before paying their bill. The examiner will also look at the taxpayer's advertising account to test the accuracy of reported income. Are specials advertised? How often? Specials may refer to certain menu items or discounted prices or both. Are the times during which specials are offered (for example, happy hour or weekly breakfast hours) reflected in the daily receipts ledger? During the initial interview ask enough pertinent questions to determine if these or any other situations should be considered.

In addition to the above calculations, normal audit procedures should be followed, including tracing gross receipts to bank deposits, analyzing bank deposits of all business and personal accounts of the owner/manager, etc. The examiner will review the interview responses regarding internal controls. Does the same person who counts the daily receipts also make the bank deposit? Are the meal orders taken on numbered tickets or would it be easy to simply not ring up a sale on the cash register for some orders? The examiner must look closely at the supervision habits in the restaurant to evaluate how sales might be understated or how easily theft may occur and by whom.

Net Worth Method: IRM 4.10.4.6.7

This method measures the difference between a taxpayer's net worth (total assets less total liabilities) at the beginning and at the end of the year. An overall increase in net worth represents taxable income. This method works when there is an entire business element missing, such as a retailer that does not report sales from an internet business, or a taxpayer who has additional income from an illegal source.

The net worth method can also be used to corroborate other methods of proof or to test the accuracy of reported taxable income.

The net worth method of establishing income is illustrated in Michas v. Commissioner, T.C. Memo. 1992-161. During 1984, the taxpayers owned several sole-proprietorships, including a liquor store. The Service determined that the books and records of these sole-proprietorships were inadequate and analyzed the taxpayer's net worth to determine whether all taxable income had been reported. The Service performed this

analysis by determining the cost of the taxpayers business and personal assets at the beginning and end of 1984. The Service then reduced these amounts by the taxpayer's liabilities at the beginning and end of the year. Then, the difference was adjusted by adding nondeductible expenditures (for example, living expenses) and by subtracting nontaxable sources of income (for example, gifts and loans).

The Court largely agreed with the Service, but found that certain adjustments to net worth were not proper. Accordingly, the Court reduced the amount of unreported income determined by the Service.

Table 9a. Examination Coverage: Recommended Fiscal Year 2017

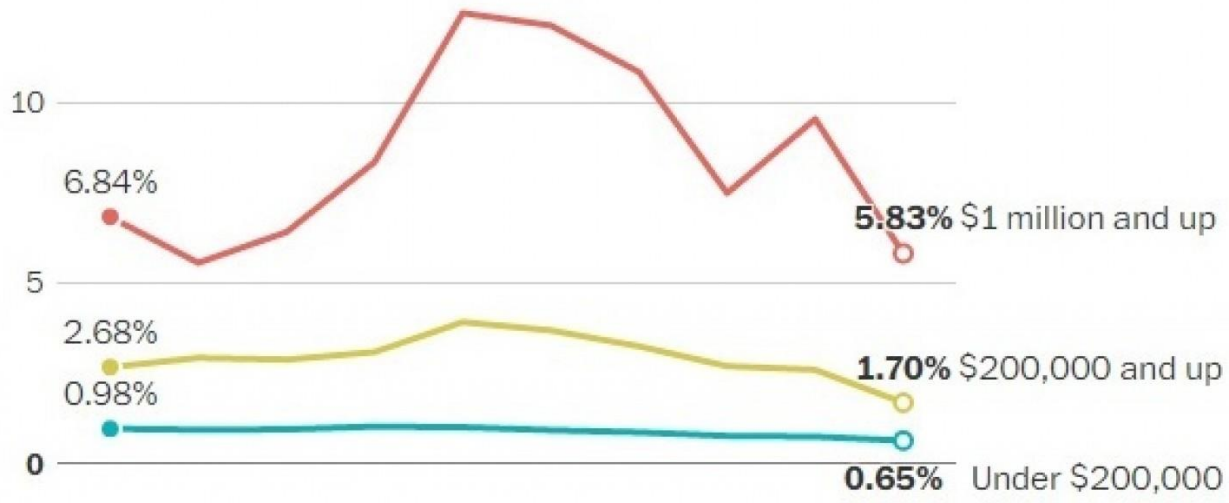
Type and size of return	All returns filed in Calendar Year 2016 [1, 2]	Returns examined in Fiscal Year 2017 [1]			
		Total	Percentage covered	Field [3]	Correspondence
	(1)	(2)	(3)	(4)	(5)
United States, total	**195,614,161**	**1,059,924**	**0.5**	**309,062**	**750,862**
Taxable returns:					
► Individual income tax returns, total	149,919,416	[5] 933,785	0.6	214,582	719,203
► Returns with total positive income under $200,000 [7]:					
► Nonbusiness returns without Earned Income Tax Credit:					
Without Schedules C, E, F, or Form 2106 [8]	81,474,839	154,310	0.2	24,510	129,800
With Schedule E or Form 2106 [9]	15,818,718	112,792	0.7	32,054	80,738
► Business returns without Earned Income Tax Credit:					
Nonfarm business returns by size of total gross receipts [10]:					
Under $25,000	11,005,284	98,952	0.9	26,382	72,570
$25,000 under $100,000	3,305,637	44,434	1.3	20,910	23,524
$100,000 under $200,000	914,814	18,994	2.1	13,612	5,382
$200,000 or more	719,214	13,307	1.9	10,757	2,550
Farm returns	1,244,590	5,454	0.4	2,379	3,075
► Business and nonbusiness returns with Earned Income Tax Credit by size of total gross receipts [10, 11]:					
Under $25,000	25,948,509	[12] 361,360	1.4	18,513	342,847
$25,000 or more	1,909,631	[12] 19,909	1.0	11,949	7,960
► Returns with total positive income of at least $200,000 and under $1,000,000 [7]:					
Nonbusiness returns	4,873,138	40,521	0.8	17,114	23,407
Business returns	2,001,954	31,471	1.6	16,265	15,206
► Returns with total positive income of $1,000,000 or more [7]	519,406	22,704	4.4	11,087	11,617
► International returns [13]	183,682	9,577	5.2	9,050	527
► Corporation income tax returns, except Form 1120–S, total [14]	1,906,645	18,962	1.0	17,962	1,000
► Returns other than Forms 1120–C and 1120–F [15]:					
► Small corporations	1,771,641	12,157	0.7	11,803	354

No balance sheet returns	414,636	2,527	0.6	2,459	68
Balance sheet returns by size of total assets:					
Under $250,000	849,698	4,370	0.5	4,278	92
$250,000 under $1,000,000	302,052	3,221	1.1	3,157	64
$1,000,000 under $5,000,000	169,366	1,587	0.9	1,495	92
$5,000,000 under $10,000,000	35,889	452	1.3	414	38
► Large corporations	77,709	6,109	7.9	5,659	450
Balance sheet returns by size of total assets:					
$10,000,000 under $50,000,000	42,392	1,676	4.0	1,585	91
$50,000,000 under $100,000,000	9,141	930	10.2	887	43
$100,000,000 under $250,000,000	9,031	897	9.9	842	55
$250,000,000 under $500,000,000	5,529	550	9.9	483	67
$500,000,000 under $1,000,000,000	4,127	462	11.2	413	49
$1,000,000,000 under $5,000,000,000	5,293	810	15.3	737	73
$5,000,000,000 under $20,000,000,000	1,580	424	26.8	381	43
$20,000,000,000 or more	616	360	58.4	331	29

Type and size of return	All returns filed in Calendar Year 2016 [1, 2]	Returns examined in Fiscal Year 2017 [1]	0.4	d	d
		Total	Percentage covered	Field [3]	Correspondence
	(1)	(2)	(3)	(4)	(5)
► Estate tax returns, total [17]	35,042	2,876	8.2	2,876	0
► Size of gross estate:					
Under $5,000,000	23,013	570	2.5	570	0
$5,000,000 under $10,000,000	8,095	1,086	13.4	1,086	0
$10,000,000 or more	3,934	1,220	31.0	1,220	0
► Gift tax returns	244,974	1,886	0.8	1,886	0
► Employment tax returns	30,532,806	53,716	0.2	37,137	16,579
► Excise tax returns	1,000,648	13,961	1.4	12,256	1,705
► Other taxable returns [18]	[4]	335	[4]	143	192
Nontaxable returns [19]:					
► Partnership returns	3,978,262	15,275	0.4	9,005	6,270
► S corporation returns [20]	4,808,833	13,448	0.3	12,169	1,279
► Other nontaxable returns [21]	[4]	2,396	[4]	93	2,303
Income, estate, gift tax, and nontaxable returns, total	**164,080,707**	**991,912**	**0.6**	**259,526**	**732,386**

Audit rates down across income levels

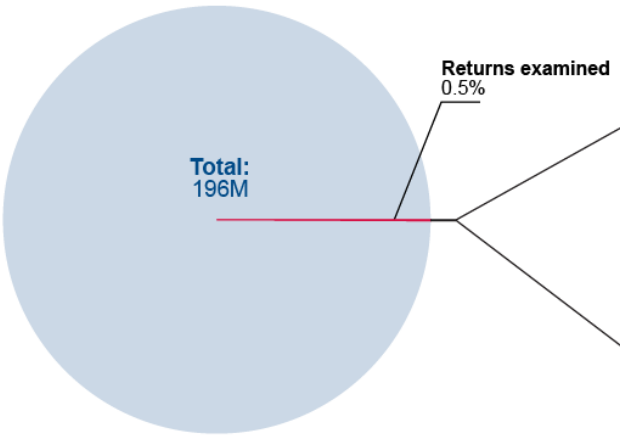
The wealthy are more likely to be audited, but the share of returns examined has dropped for all income levels in recent years because of budget cuts. The share of individual tax returns audited each year, by income level, between 2007 and 2016:



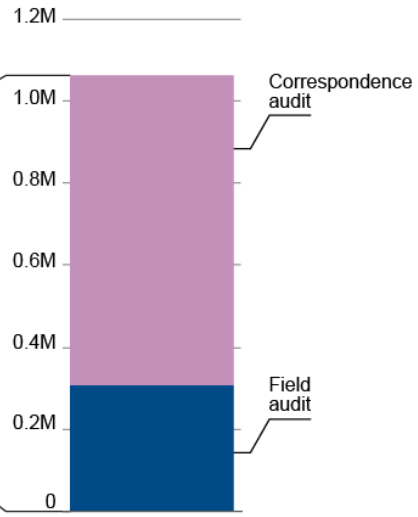
Audit rates for incomes above $1 million are included in the audits for incomes above $200,000.

Source: Internal Revenue Service WASHINGTON POST

Total Returns Filed, Calendar Year 2016, and Percentage Examined, Fiscal Year 2017



Returns Examined, Fiscal Year 2017



SOURCE: 2017 *IRS Data Book* Table 9a

Criminal Investigation Unit
IRS Criminal Investigation (CI) is comprised of approximately 4,400 employees worldwide, approximately 2,500 of which are special agents whose investigative jurisdiction includes tax, money laundering and Bank Secrecy Act laws. While other federal agencies also have investigative jurisdiction for money laundering and some bank secrecy act violations, IRS is the only federal agency that can investigate potential criminal violations of the Internal Revenue Code.

Collection Enforcement
Overall, some of our most common enforcement tools at the IRS also showed decreases

Table 16. Delinquent Collection Activities, Fiscal Years 2016 and 2017
[Money amounts are in thousands of dollars]

Activity	2016	2017
Returns filed with additional tax due:		
Gross total yield from unpaid assessments [1]	52,303,406	54,378,716
Less: Credit transfers [2]	14,925,300	14,395,007
Equals: Net total amount collected	37,378,106	39,983,710
Taxpayer delinquent accounts (thousands):		
Number in beginning inventory	13,371	14,005
Number of new accounts	7,652	8,266
Number of accounts closed	7,018	8,191
Ending inventory:		
Number	14,005	14,080
Balance of assessed tax, penalties, and interest [3]	138,232,446	131,117,253
Returns not filed timely:		
Delinquent return activity:		
Net amount assessed [4]	12,492,286	12,548,113
Amount collected with delinquent returns	2,316,289	1,609,172
Taxpayer delinquency investigations (thousands) [5]:		
Number in beginning inventory	3,045	2,764
Number of new investigations	1,026	362
Number of investigations closed	1,307	834
Number in ending inventory	2,764	2,291
Offers in compromise (thousands) [6]:		
Number of offers received	63	62
Number of offers accepted	27	25
Amount of offers accepted	225,946	255,862
Enforcement activity:		

Number of notices of Federal tax liens filed [7]	470,602	446,378
Number of notices of levy requested on third parties [8]	869,196	590,249
Number of seizures [9]	436	323

Criminal Investigations

	FY 2017	FY 2016	FY 2015	FY 2014
Investigations Initiated	3019	3395	3853	4297
Prosecution Recommendations	2251	2744	3289	3478
Informations/Indictments	2294	2761	3208	3272
Convictions	2300	2672	2879	3110
Sentenced*	2549	2699	3092	3268
Percent to Prison	80.1%	79.9%	80.8%	79.6%

Collection IRS Processing of Notices of Delinquent Taxes Due

Tax Collection

The IRS Collection Division attempts to collect delinquent taxes as inexpensively and rapidly as possible. To accomplish this task the IRS makes extensive use of computers. Only when automated methods have failed to collect a tax is the matter assigned to an individual for collection.

Four-Level System

To effectuate this policy the IRS utilizes a four-level system of collection. It begins its collection efforts on each account by generating computer notices from a Regional Compliance Center. If the efforts of the Compliance Center do not secure payment, the account is then assigned to the Automated Collection System (ACS). The Automated Collection System attempts to collect the tax liability by initiating telephone calls to the taxpayer and others. During the time that an account is assigned to Compliance Center and ACS, accounts may also be resolved by Collection Support Staff assigned to handle "walk-ins" in local IRS offices. If none of these levels of the system are successful in collecting the account, it is eventually assigned to a Revenue Officer for a field investigation. Obviously, it is much less expensive for the IRS to collect a tax by mailing a notice or placing a telephone call than it is to visit the taxpayer personally. For the taxpayer, however, personal negotiation is much more effective than dealing with an automated system.

Compliance Center

The IRS has ten Regional Compliance Centers which process all tax returns filed with the IRS. Compliance Centers are extensively automated. The information on each tax return filed is encoded into the IRS computer at a Compliance Center. That IRS computer system will determine if computational errors are contained on the return and

issue notices regarding errors. The Compliance Center is also responsible for initiating notices to taxpayers to collect balances due on tax returns.

1040 Notice Procedure

Upon receipt of a tax return or other document showing a balance due, the following process takes place in the Internal Revenue Compliance Center. Within several weeks after receipt of the document, the information is placed on the computer system. That system will then initiate a series of notices. The first notice issued is a document titled "Request for Payment," which informs the taxpayer that there is a balance due on the return, states the amount of tax, interest and penalties due, and requests payment within ten days. This is the notice statutorily required for the creation of a valid Federal Tax Lien. If the liability is for individual income taxes, and the liability is relatively small, the taxpayer will normally receive four subsequent notices before the IRS proceeds to take any administrative collection measures. If the liability is not paid after the initial notice, the taxpayer will receive a second notice, "Reminder," Notice 501. The IRS will issue Notice 503, "Urgent, Immediate action is required ", five weeks after the first notice. The taxpayer will receive Notice 504, "Urgent, We intend to levy on certain assets. Please respond NOW." in the mail five weeks after issuance of Notice 503 if payment is not made after that notice. Notice 504 is the nastiest of the IRS letters. If the taxpayer fails to pay after Notice 504 the matter will be referred for collection by the Automated Collection System (ACS). If ACS is unsuccessful in collecting or resolving the matter the IRS will then issue Letter 1058, "FINAL NOTICE, NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING. PLEASE RESPOND IMMEDIATELY." If the taxpayer exercises her appeal rights, collection will be held. If the taxpayer fails to appeal the IRS will levy after expiration of 30 days from the notice. One unusual convention of the IRS is that each notice will bear a date which falls on Monday.

Business Taxpayers

In the case of business taxes (either corporate income or withholding taxes), the IRS will send three notices period prior to initiating enforcement measures. The total time from first notice to enforcement action is normally at least 16 weeks. The taxpayer will receive a first notice and a Notice 504 five weeks subsequent to the first notice. The account will then be referred to ACS or a Revenue Officer for issuance of Letter 1058 if the taxpayer fails to resolve the liability.

Notice of Levy

ACS has computerized sources of income or assets of the taxpayer, such as wages, bank accounts, certificates of deposit or accounts receivable, all of which can be seized administratively from the taxpayer, it will issue a Notice of Levy against the taxpayer's assets approximately six weeks after the Letter 1058. If the ACS does not have sources of income or other assets to levy upon, it will either research other sources or issue a Balance Due (Bal Due) to a local area office for collection, several weeks subsequent to the final notice.

Correspondence With Compliance Center

Normally, it is ineffective to write to a Compliance Center. It may take some Compliance Center six weeks or more to process correspondence. For example, if your client receives a Notice 504 even though he paid the tax upon receipt of the Notice 503, a letter to the IRS will not stop assignment to ACS. The IRS will not process your letter for six weeks, yet the computer continues to automatically refer the matter to ACS on a set cycle.

Telephone Collection Efforts

If an account cannot be collected by a Returns Processing Center by using notices a upon the taxpayer's wages or bank account, the matter will then be transferred to an ACS for telephone collection efforts. Each ACS, including the Return Processing Center, has a computerized telephone collection system. The IRS has twenty-three ACS sites.

IRS Lien

Levying Taxpayer Property

The IRS has the power to collect taxes by levying on taxpayers' property because of the Federal Tax Lien. When a person owes taxes, the IRS gains a lien on all that person's assets after meeting certain statutory requirements. The lien attaches to all rights, title and interest of the taxpayer wherever it may be situated. [IRC § 6321] Once the IRS has a lien on all of a taxpayer's assets, it may enforce that lien by administratively levying his or her assets.

Lien Rights

An example of lien rights would be the lien created when a person buys a car and finances the purchase through a bank. The purchase price for the car is $10,000. The purchaser pays a down payment of $2,000 and signs a note with a bank giving it a lien on the car. The bank then lends the buyer $8,000 to complete the purchase. If the buyer defaults on the note, the bank may repossess the car. With the IRS it gains a lien on all of a taxpayer's assets and therefore it has the right to seize most of those assets to satisfy unpaid taxes.

Liability of Taxpayer

The liability of a taxpayer for Internal Revenue taxes is personal and, except for the taxes imposed under subtitle E of the Code relating to distilled spirits, wines, and beer, does not directly attach to his or her property. In this respect the liability is analogous to a simple debt and, with nothing more, could be enforced only by a court action. To protect the revenue, Congress has provided an administrative means by which collection of assessments may be effected. Congress also has statutorily pro-vided for a lien which attaches to a taxpayer's property. The lien is often referred to as the "statutory" or the "general" lien. The following requirements for establishing the lien are in the Code:

- An assessment must have been made;
- A notice and demand for payment must have been made (the first IRS notice meets this requirement); and

- The taxpayer must have neglected or refused to pay. [IRC § 6321]

Meeting Statutory Requirements
It is surprisingly easy for the IRS to meet the statutory requirements. An assessment occurs when the IRS encodes the return information to its system of records and an assessment officer signs a certificate of assessment. A machine now automatically imposes a signature on assessment documents when return information is posted to the IRS computer system. The notice and demand requirement is met by sending the taxpayer a notice requesting payment. [See Chapter 2] If the taxpayer doesn't pay in the time specified in the notice, he or she has "neglected or refused to pay the tax." Partial payment does not prevent a lien arising for the remaining balance.

Effect of Federal Tax Lien
The effect of the Federal Tax Lien statute is that when any person fails to pay any assessment of tax, plus interest, penalties, or costs, a lien in favor of the United States arises upon all property and rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. Even if the taxpayer makes partial payment, a lien will arise for the balance of the tax.

Statutory Lien
The statutory lien for Federal taxes arises when the assessment is made, which is the date the summary record of assessment (Form 23-C) is signed by an assessment officer. [IRC § 6322] The Code further provides that the tax lien shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by a lapse of time. [IRC § 6322]

Unenforceable – Statutory Period
The term "unenforceable" as used in the Code means unenforceable because of the expiration of the statutory period for collection. Prior to 1990 the Statute of Limitations for collection was six years from the date of assessment plus such suspended, extended or postponed period of time as may, by law, apply. [IRC § 6502] The Revenue Reconciliation Act of 1990 extended the Statute of Limitations for collection to ten years. [Revenue Reconciliation Act of 1990, § 1131(a)] This period was extended for all tax liabilities for which the Statute of Limitations was still open when the bill was passed by Congress and signed by the President. The reporting of an account as uncollectible does not affect the statutory period for collection. However, a distinction must be made between accounts that are administratively uncollectible and those that may not be collected by operation of law, i.e., the lapse of time, discharge in bankruptcy, court order, etc.

Filing Notice of Lien
IRC § 6323(a) modifies IRC § 6321 by providing the Federal Tax Lien is not valid against purchasers, holders of security interests, mechanics' lienors, and judgment lien creditors until a Notice of Lien has been filed. Filing the Notice of Lien is constructive notice to these persons that the lien, provided for by the Code, exists. The tax lien becomes valid, with certain exceptions, against competing creditors when Notice of Lien

is filed. In most jurisdictions, state law requires a deed of real property be entered in a public index to be valid against a purchaser. Where this is the case, and an adequate system for public indexing is available, a Federal Tax Lien must be recorded in the public index to be valid with respect to real property.

Restructuring and Reform Act
The Internal Revenue Service Restructuring and Reform Act of 1998 established formal procedures designed to ensure due process where the IRS seeks to impose a lien. The due process procedures apply after notice of a Federal tax lien has been filed. The IRS must notify the taxpayer of the filing a Notice of Lien within five days of its filing. During the 30-day period beginning with the mailing or delivery of this notification, the taxpayer may demand a hearing before an appeals officer who has had no prior involvement with the taxpayer's case.

Seizure of Assets

In General
The IRS has collection tools available to it which are the envy of every commercial collection agency. Because the IRS has a lien on a delinquent taxpayer's property it may take that property to satisfy taxes. The IRS can, administratively, take actions that, any other creditor could take only after extensive court litigation including:

1. initiating a lawsuit;
2. prevailing on that suit;
3. having a judgment entered;
4. possibly conducting a citation proceeding in order to discover assets; and
5. having a levy issued for service by the sheriff's department to seize and sell the assets of the debtor.

Approval Process For Liens, Levies, And Seizures
The IRS Restructuring & Reform Act of 1998 requires the IRS to implement an approval process under which any lien, levy or seizure would, when appropriate, be approved by a supervisor, who would review the taxpayer's information, verify a balance is due, and affirm that a lien, levy or seizure is appropriate under the circumstances. Circumstances to be considered include the amount due and the value of the asset. The provision became effective for collection actions commenced after July 22, 1998, except that in any-action under the Automated Collection System (ACS), the provision applied to actions initiated after December 31, 2000. [Act § 3421]

Automated Collection
Most notices of levy and liens are served by Automated Collection Systems (ACS). Over the years, more hardships have been visited upon taxpayers by the ACS system than Revenue Officers. One must be alert to exercise the rights under Section 6330 to protect clients from potential abuses by ACS.

Taking Assets

Revenue Officers and ACS are empowered to seize assets in the hands of third parties such as wages, deposits in bank accounts, certificates of, deposits, accounts receivable, and other items of intangible personal property belonging to the taxpayer, such levies are routinely issued by the IRS computer system. A Revenue Officer may seize, with proper approval, items of tangible personal property such as automobiles, any and all business assets, contents of a safe deposit box, items of jewelry or wearing-apparel of significant worth, stamp collections, and .any other salable items of personal property.

Residential Seizure
No seizure of a dwelling that is the principal residence of the taxpayer or the taxpayer's spouse, former spouse, or minor child is allowed without prior judicial approval. Notice of the judicial hearing must be provided to the taxpayer and relevant, family member. At the judicial hearing, the Secretary would be required to demonstrate: (1) that the requirements of any applicable law or administrative procedure relevant to the levy have been met, (2) that the liability is owed, and (3) that no reasonable alternative for the collection of the taxpayer's debt exists. The provision is effective for collection actions initiated after January 20, 1998.
Act § 3445(b); IRC § 6334(e)]

Business Assets
The IRS Restructuring & Reform Act of 1998 provided for protection of tangible personal property or real property used in trade or sale of business from levy by -the Internal Revenue Service. Area Manager or Assistant Area Manager must' approve prior to seizing tangible business' related assets. It must exhaust all other payment options before seizing the taxpayer's business assets or principal residence. The provisions should substantially reduce the number of Internal Revenue seizures of business assets. [Act § 3445(b); IRC § 6374(e)]

Collection Due Process Rights
RRA 98 established formal procedures designed to insure due process where the IRS seeks to collect taxes by levy (including by seizure). The due process procedures also apply after notice of a Federal tax lien has been filed. The IRS is required to notify the taxpayer five days after filing a Notice of Lien or before any levy action. During the 30-day period beginning with the mailing or delivery of this notification, the taxpayer may demand a hearing before an appeals officer who has had no prior involvement with the taxpayer's case. These provisions became effective January 18, 1999. [3401] [IRC 6320]

Impartial Hearing
IRC 6320 provides statutory appeal rights to taxpayers subject to federal tax liens. The provision provides for an impartial hearing officer (which may not have been the case in the past). In the past the Internal Revenue Service collection division engaged in substantial ex parte discussion with the Appeals Officer. Now there are specific statutory protections available to the taxpayer and specific guarantees of independence by the Appeals Officer. Because taxpayers will also have the right to seek judicial

review of any determination of the appeals officer, the taxpayer is guaranteed to have better consideration at the appeals level. In the past, if an Appeals Officer ruled against you the matter was referred back to the collection division and it filed the lien without further rights to the taxpayer. As case law develops, Appeals Officers will also have guidelines from the courts as to appropriate reasons for foregoing liens and releasing liens.

Levy Appeal Rights
Before the IRS can levy against a taxpayer's property, it would be required to provide the taxpayer with a "Notice of Intent to Levy," similar to that currently required under 6331(d). The notice would not be required to itemize the property the Secretary seeks to levy on. Service by registered or certified mail, return receipt requested, would be required. ['3401(B)] [IRC '6330]

Notice of Intent to Levy
Subject to the exceptions noted below, no levy could occur within the 30-day period beginning with the mailing of the "Notice of Intent to Levy." During that 30-day period, the taxpayer may demand a pre-levy hearing before an appeals officer who has had no prior involvement with the taxpayer's case.

What Must a Pre-levy CDP Notice Include?
Under section 6330(a)(3), a pre-levy CDP Notice must include, in simple and non-technical terms:

1. Amount of the unpaid tax.
2. Notification of the right to request a CDP hearing.
3. A statement that the IRS intends to levy.
4. The taxpayer's rights regarding the levy action, including a brief statement that sets forth–

   (a) The statutory provisions relating to the levy and sale of property;
   (b) The procedures applicable to the levy and sale of property;
   (c) The administrative appeals available to the taxpayer regarding the levy and sale and the procedures relating to those appeals;
   (d) The alternatives available to taxpayers that could prevent levy on the property (including installment agreements); and
   (e) The statutory provisions and the procedures relating to the redemption of property and the release of liens on property.

What Must a Taxpayer Do to Obtain a CDP Hearing?
The taxpayer must make a request in writing for a CDP hearing. A written request in any form which requests a CDP hearing will be acceptable. The request must include the taxpayer's name, address, and daytime telephone number, and must be signed by the taxpayer or the taxpayer's authorized representative and dated. The CDP Notice should include, when appropriate, a Form 12153, “Request for a Collection Due Process Hearing”, that can be used by the taxpayer to request a CDP hearing.

The Form 12153 requests the following information:

1. The taxpayer's name, address, daytime telephone number, and taxpayer identification number (SSN or TIN).
2. The type of tax involved.
3. The tax period at issue.
4. A statement that the taxpayer requests a hearing with Appeals concerning the proposed collection activity.
5. The reason or reasons the taxpayer disagrees with the proposed collection action.

Taxpayers are encouraged to use a Form 12153 in requesting a CDP hearing so the request can be readily identified and forwarded to Appeals. Taxpayers may obtain a copy of Form 12153 by contacting the IRS office that issued the CDP Notice or by calling, toll-free, 1-800-829-3676. The taxpayer may perfect any timely written request for a CDP hearing, which otherwise meets the requirements set forth above and which is made or alleged to have been made on the taxpayer's behalf by the taxpayer's spouse or any other representative, by filing, within a reasonable time of a request from Appeals, a signed written affirmation that the request was originally submitted on the taxpayer's behalf.

Form 12153
Set forth all defenses to levy

a) Offer in compromise
b) Amount of the liability
c) Spousal defenses
d) Penalties
e) Report account currently not collectible
f) Request for installment agreement

Equivalent Hearings
If a taxpayer does not request a CDP hearing within the 30-day period, a taxpayer can still request a hearing at a later date and the IRS will provide a hearing equivalent to a CDP hearing. However, the taxpayer will not be entitled to judicial review of that later hearing. A request for an equivalent hearing must be within one year of the original notice.

Types of Notice of Levy

In General
Notices of Levy are used to reach intangible assets in the hands of third parties. Two forms are commonly encountered by the practitioner. Form .668-A, Notice .of Levy, is used by Revenue Officers to attach any item of intangible personal property held by a third party. It is also used with a seizure of any items of tangible personal property held

by a third party. Form 668-W, Notice of Levy on, Wages and Other Income, is used by the Service to attach wages or other income of the taxpayer.

Levy Appeal Rights
Before the IRS may levy against a taxpayer's property, it must provide the taxpayer with a notice giving him- or her 30 days to appeal the proposed levy. The IRS complies with the notice requirements by issuing Letter 1058, "FINAL NOTICE, NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING. PLEASE RESPOND IMMEDIATELY." The IRS is not required to itemize the property which it seeks to levy. The notice must be served by registered or certified mail return receipt requested or in person upon the taxpayer. [Act § 3401; IRC § 6330]: The CDP hearing is regarding the tax liability for the taxable period or periods for which the levy is to be made. In jeopardy situations, and where a levy is made on a state tax refund,' notification to the taxpayer of a right to a hearing is not required to be given until after the levy action has occurred.

Notice Requirements
The Section 6330 notice of 'the right to a Collection Due Process hearing can be combined with the Notice of Intent to Levy in IRC § 6331(d), or issued separately. The Section 6330 notice must set forth the amount of unpaid tax, the right to a hearing, and a statement that the IRS intends to levy and the taxpayer's rights regarding the levy action. The statement must also set forth the Code provisions and procedures pertaining to levy and sale, the administrative appeal procedures regarding levy and sale, alternatives available to the taxpayer that could prevent levy and the Code provisions and procedures pertaining to redemption and release of liens. Subject to the exceptions noted below in § 3.4 of this work no levy may occur within the 30-day period beginning with the mailing of the Letter 1058. If the taxpayer files a timely appeal the IRS may not levy during the pendency of the appeal and subsequent litigation.

Jeopardy Levies, State Tax Refund Levies
The Section 6330 procedures do not entitle the taxpayer to a Section 6330 hearing prior to a jeopardy levy or a levy upon a State tax refund.

- Jeopardy levies—The taxpayer will be entitled to a post-levy Section 6330 notice and will be entitled, to a post-levy Section 6330 hearing and court review.
- State tax refund levies—The taxpayer will receive pre-levy Section 6331(d) CP¬504 notice (URGENT NOTICE), post-levy Section 63.30 notice, and will be entitled to a post-levy Section 6330, hearing and court review.
- In other cases, as previously discussed, a combined Section 6331(d)/6330 notice Letter 1058 will be sent, entitling the taxpayer to a pre-levy Section 6330 hearing (FINAL NOTICE).

Approval Prior To Jeopardy Assessment
Due to the urgency involved in jeopardy assessments, the file will be given the highest priority of handling within and between various divisions. Refer to Delegation Order No. 219 for delegation authority. Because of the enactment of the IRS Restructuring and Reform Act of 1998 on July 21, 1998, it is now a statutory requirement that the Chief

Counsel or his/her delegate must approve all jeopardy and termination assessments and all jeopardy levies. This authority has been redelegated to Regional Counsel, who may redelegate the authority no lower than Assistant Area Counsel and to the Associate Chief Counsel (International) who may redelegate the authority no lower than Territory Manager. Approval is now required by Counsel in ALL cases, not just where time permits. [IRM 5.1.4.3]

Accounts Receivable
Accounts receivable, notes receivable and other assets owed to a taxpayer may be levied upon. Any receivable that is due in a single payment (rather than installments) may ordinarily be reached by one Notice of Levy. If the taxpayer has an unqualified right to receive installments on a debt, one Notice of Levy would reach all such installments. Where the right to receive installments does not exist or where there is doubt as to the taxpayer's right to future payments, the IRS will serve a 668-A as each installment becomes due.

Benefit Income
The Taxpayer Relief Act of 1997 allows the IRS to serve a continuous levy which attaches to 15% of the following payments:

1. any benefit payment for which eligibility is based on a payee's income or assets (or both),
2. the minimum exempted amount of wages in salary,
3. worker's compensation payments,
4. annuity or pension payments under the Railroad Retirement Act and benefits under the Railroad Unemployment Insurance Act, and
5. unemployment benefits and certain means-tested public assistance payments. [IRC §6331(h)(2)]

Levy on Lump Sum of IRA or Pension Plan
The standard Form 668-A states: "This levy will not attach to any Individual Retirement Account (IRA), retirement plan benefiting self-employed individuals and any other qualified pension, profit sharing, and stock bonus plan in your possession or control." With Group Manager approval, a Revenue Officer may cross out the word "not" on the 668-A. [IRM 5.11:1.2.4] The IRS may not force distribution from a pension plan if the employee does not have a right to a lump-sum payment if the taxpayer has the right to withdraw a lump sum from an IRA, the IRS may levy that lump sum. When the IRS levies an IRA, the owner must report that lump sum as income for the year that the funds were taken from the account.

Levy on IRAs and 401K plans
The Internal Revenue Service retains the right to levy upon IRAs, Keoghs, and 401K plans, but now when it takes such action, it may not assert an excise penalty on the involuntarily converted funds. Taxpayers still must pay the income taxes due as a result of-the involuntary conversion.

Cash Loan Value of Insurance
The cash loan value of insurance may be levied upon without surrender of the policy. [IRC § 6332(b)] As a general rule, the IRS will not levy cash loan value if the taxpayer has few assets, a small income and/or the policies have a face value of less than $1,000. [IRM 5.11.6.3.1]

Social Security Benefits
The Internal Revenue Service may seize social security benefits. With management approval, a 668-W is issued to the Social Security Administration. Prior to passing the Taxpayer Relief Act of 1997, the IRS had to serve a new levy each month since it did not have a prospective levy similar to that on wages. With passing the Act, the IRS may now seize 15% of social security benefits on a continuing basis. [IRC §6331(h)(1); IRM 5.11.6.1.1]

Notice of Levy on Bank Accounts
When a bank or financial institution is served with a Notice of Levy, it must hold the monies in escrow for at least 21 days after service. [IRC § 6332(c)] This provision was placed in the Internal Revenue Code to allow the taxpayer time to correct erroneous levies. The 21 days also allows time to negotiate with the Service regarding the tax liability and release of the levy. The monies held in escrow are not available to the taxpayer or the Service during the 21-day period. The Bank may not clear outstanding checks from the escrowed funds.

Levy on Wages
The levy authority is far reaching. It permits a continuous attachment of the nonexempt portion of the wage or salary payments due the taxpayer and the seizure and sale of all of the taxpayer's assets except certain property exempted by law. The IRS effectuates a levy of wages by serving a Form 668-W, Notice of Levy on Wages and Other Income, upon the employer. The Service is not bound, as are other creditors seeking to enforce their judgments, by the exempt property provisions provided for by state law. The exemptions for levies on wages or salary are on a form served upon the taxpayer's employer when the Notice of Levy is served. The weekly exemption is 1/52 of the sum of the standard deduction plus the aggregate personal exemptions allowed for the taxpayer that year. [IRC § 6334(d)(2)(A)]

For example, if the taxpayer were single with a $4,000 personal exemption and a $6,000 standard deduction, he could take home $192.31 per week. Should the taxpayer fail to fill out the form furnished to his employer, the employer must compute the exemption as if the taxpayer were married filing separately with one exemption. [IRC § 6334(d)(2)(B)] The balance of the taxpayer's net pay is remitted to the Internal Revenue Service. The statutory allowance for dependents is increased to the extent of court ordered child support payments. The IRS will not recognize noncourt ordered support arrangements.

Child Support Payments

When you have a client under an obligation to make child support payments under a court order, who receives a levy on his wages, immediately contact the employer and the IRS Collection Division employee responsible for the levy and notify them of the additional exemption.

Take Home Pay
The IRS has a policy of limiting its levy to "take home pay;" that means the IRS will allow the usual deductions from the employee's check for pension, health insurance, etc. Only where the IRS determines the taxpayer is voluntarily allotting his or her pay if it would defeat the purpose of the levy will it object to the "take home pay" concept. [Policy' Statement P-5-29]

Levy of Independent Contractor
At least one court has held that independent contractors may be levied in the same manner as payments to employees." The court refused to look at an alternative construction of IRC § 6331 and instead looked at the construction placed upon that provision by the Internal Revenue Service. The author suggests that the court erred in its consideration and that the plain language of the statute indicates that a levy on other than wages should not be ongoing. Notwithstanding the author's interpretation, however, the IRS now has case law which supports its interpretation, and there is no question that it will aggressively assert it may levy upon realtors and insurance salesman on an ongoing basis. Notwithstanding the IRS interpretation, aggressively assert the plain language of the notice of levy on wages statute.

Levy Exemptions

Exemptions Available
The Act substantially increases the exemptions from levy available to taxpayers under §6334 of the Internal Revenue Code. The Exemption for personal effects rises to $9,120 in 2016 and books and tools of trade goes to $4,560 in 2016. The increases have the practical effect of preventing seizure of books and tools in trade and personal effects from many lower income taxpayers. The pre-1998 exemptions were di minimus and allowed an opportunity for the IRS to take cars and other personal belongings from individuals with limited means. The current exemptions allow taxpayers to at least retain modest vehicles, personal items, books and tools of trade with reasonable value. [Act §3431] [IRC §6334(a)]

Seizure and Sale
Taxpayer’s Physical Property
IRC § 6331 authorizes the Internal Revenue Service to take physical property belonging to the taxpayer. Except when seizing a personal residence, the IRS is not required to seek judicial approval prior to seizing property. The IRS must give a 30-day notice under IRC §§ 6330 and 6331(d) in jeopardy cases, notice and demand for payment of the tax (usually an estimate made by the Internal Revenue Service) is made contemporaneously with seizure of the taxpayer's assets.

Approval
All collection seizures will require a minimum approval level of the Territory Manager. Approval must be written. A Revenue Officer must complete an extensive checklist and submit the entire case file to management when proposing a seizure. [IRM 5.10.1.3]

Service of Seizure Documents
The seizure process begins with the Revenue Officer appearing before the taxpayer and serving a Levy (Form 668-B) upon him. The seizure is fully effectuated by delivering a Form 2433, Notice of Seizure, to the taxpayer. The Notice of Seizure will describe the property seized. In the case of real property, the legal description of the property is listed on the Form 2433. Regarding personal property, the IRS will inventory the property and list it with an evaluation on the Notice of Seizure.

Residential Seizure
The IRS Restructuring & Reform Act of 1998 provides that no seizure of a dwelling that is the principal residence of the taxpayer or the taxpayer's spouse, former spouse, or minor child would be allowed without prior judicial approval. Notice of the judicial hearing must be provided to the taxpayer and relevant family member. At the judicial hearing, the Secretary must demonstrate: (1) that the requirements of any applicable law or administrative procedure relevant to the levy have been met, (2) that the liability is owed, and (3) that no reasonable alternative for the collection of the taxpayer's debt exists. [Act § 3445(b); IRC § 6334(e)]

Residences
This provision imposes substantial constraints upon the seizure of residences and business assets. The Internal Revenue Service is specifically prohibited from seizing the taxpayer's residence when there is a tax liability of less than $5,000. The provision also enhances taxpayer protections for seizure of personal residences. Under prior law, the Internal Revenue Service could seize a personal residence from the taxpayer with approval of the District Director or Assistant Director. The requirement for approval by the District Director or Assistant Director was enacted with the Taxpayer Bill of Rights of 1988. IRC § 6334(e) provides additional protections from seizure of personal residences by providing the Internal Revenue Service may only take a personal residence with approval of a judge or magistrate. The provisions have substantially reduced the number of IRS seizures of residences. [Act § 3445(b); IRC § 6334(e)]

Tangible Business Assets
The IRS Restructuring & Reform Act of 1998 provided for protection of tangible personal property or real property used in trade or sale of business from levy by the Internal Revenue Service. The Internal Revenue Service must secure the signature of the Area Manager or Assistant Area Manager prior to seizing tangible business property. It must exhaust all other payment options before seizing the taxpayer's business assets. The provisions should substantially reduce the number of Internal Revenue seizures of business assets. [IRC § 6334]

Private Areas and Writs of Entry
Although the Service has the right to levy on property, how they affect the seizure has been limited by a 1977 United States Supreme Court decision, the IRS Restructuring & Reform Act of 1998 and internal IRS guidelines. The Supreme Court has held that a warrantless entry and search of a private premises (i.e., one in which the taxpayer had a reasonable expectation of privacy and in which the public was not customarily allowed) to seize and inventory property violated the taxpayer's Fourth Amendment rights."

Consent or Court Order
Prior to entering such areas the Service must secure either the permission of the taxpayer or a court order. The Service has adopted a policy of not attempting to enter a taxpayer's residence to seize assets. However, seizures of the contents of taxpayer residences have been made in some extraordinary circumstances. The effect of the Supreme Court decision," is that the Service must make a determination whether business assets are in a "public area" or a "private area" of the taxpayer's business. If they are in a "private area," the Service must either secure the written consent of the taxpayer to enter that premises for the purpose of making the seizure and taking an inventory or the Service must secure a Writ of Entry from the local U.S. District Court authorizing such entry.

Seizure of Trade or Business
If the IRS levies assets which could prevent the taxpayer from carrying on his trade or business, the taxpayer may request an expedited consideration of a Release. [IRC §6343(a)(2)] A Levy may be released if:

1. The liability is satisfied or becomes unenforceable by lapse of time; or
2. Release of the Levy will facilitate collection of the liability; or
3. The taxpayer enters into a payment agreement; or
4. The Service determines the Levy will create .an economic hardship due to the financial condition of the taxpayer; or
5. The fair market value of the property exceeds the liability and a release of part of the property could be made without hindering collection. [IRC § 6343(a)(1)]

IRS Appeals

Administrative Alternative
In order resolve tax controversies in an efficient manner the IRS has created an Office of Appeals. While the process is not mandated by statute, the Service has, for over 60 years, provided taxpayers with an administrative alternative to litigating their tax disputes in court [Reg. § 601.106]. Now commonly referred to as Appeals, this administrative branch of the IRS generally has the final power and authority of the IRS to determine audit liabilities of taxpayers [Reg. § 601.106]. The fact that the Appeals

has settled as many as 86% of the cases brought to it in a year attests to its importance and effectiveness.

Appeals Mission
Since its inception, the Appeals has been known by various names and has had differing levels of authority delegated to it. Its main mission, however, has never changed. As stated by itself, that mission is:

> "…to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service".

The mission, if you speak to an IRS employee at Appeals, is one they truly believe in. Aiding a client in his or her appeal of an audit may seem more simple than it actually is. While the Appeals route is often the most efficient and logical step, under certain circumstances it is not.

Appeals
Most tax controversies are resolved at the first level examination or collection proceedings but for those matters not settled at the first level the IRS provides for administrative appeals. Every year, the Office of Appeals helps over 100,000 taxpayers resolve their tax disputes without going to Tax Court. It is an independent organization within the IRS whose mission is to help taxpayers and the Government settle tax disagreements. Appeals primary mission is to resolve tax controversies without the need for litigation

Appeals reviews each case after the applicable IRS compliance has made its decision and work to resolve disagreements in the case on a basis that is fair and impartial to both the Government and the taxpayer.

While the process is not mandated by statute, the Service has, for over 70 years, provided taxpayers with an administrative alternative to litigating their tax disputes in court [Reg. § 601.106]. Appeals is an administrative branch of the IRS and generally has the final power and authority of the IRS to determine audit liabilities of taxpayers [Reg. § 601.106]. The fact that Appeals settles as many as 86% of the cases brought to it in a year attests to its importance and effectiveness.

Appeals also offers mediation services through Fast Track Settlement and other programs. These mediation programs are designed to help you resolve your dispute at the earliest possible stage in the audit or collection process.

Types of Cases
The mission of Appeals is accomplished by considering taxpayer appeals, holding conferences and negotiating settlements in two broad categories of cases: docketed and non-docketed cases. Non-docketed cases are those in which the Taxpayer has

filed a protest to an Area Office's proposed action [Exhibit 1] involving additional taxes, a refund disallowance [Reg § 601.106(a)(1)(ii), (d)(2)(ii)], or a rejection of an offer in compromise [Reg § 601.106(a)(1)(ii)]. Docketed cases are those which a taxpayer has filed a petition for a redetermination in the United States Tax Court. Besides the foregoing, Appeals also considers claims for refund and over-assessment cases involving income taxes, estate and gift taxes, excise and employment taxes and 100% penalties [IRM 8511 (June 16, 1993)].

Pre-Assessment Jurisdiction
The pre-assessment cases over which Appeals Office may have jurisdiction involve:

(1) Federal income, profits, estate, gift and miscellaneous excise tax (whether before or after a notice of deficiency has been issued);
(2) Employment and certain excise tax liabilities; and
(3) Additions to the tax, additional amounts and assessable penalties under IRC Chapter 68.

However, the only way the Appeals Office gains authority over a case is if the taxpayer has requested Appeals Office consideration and usually, has filed a written protest. The Appeals Office may hear the taxpayer's appeal in most cases when additional tax liabilities have been prepared, indirectly:

(1) Federal income, estate, gift and generation-skipping transfer tax cases;
(2) Employment and certain federal excise tax cases; and
(3) Cases involving liability under IRC Chapter 68 for additions to the tax, additional amounts and assorted penalties [Reg § 601.106(a)(1)(ii)].

Post-Assessment Penalty Appeals
Appeals Offices also have jurisdiction over post-assessment cases involving penalties provided in IRC Chapter 68 [See Reg § 601.106(a)(1)(ii)(c), (iii)]. Most penalties in Chapter 68 are imposed for a taxpayer's failure to perform some act required by the Code (i.e., failure to file a return, or furnish a statement). These Chapter 68 penalty provisions generally state that the penalty will not be imposed where the taxpayer's failure to act was due to reasonable cause and was not willfully neglectful. Where the taxpayer has such a defense to a Chapter 68 penalty, the taxpayer may have an administrative post-assessment appeal. In all post-assessment penalty appeals, written protests are required, and Technical Advice procedures are not available [Reg § 601.106(a)(1)(iv)].

Tax Exempt/Government Entities
Appeals also has jurisdiction over Tax Exempt/Government Entities (SB/SE-TE/GE) cases which involve initial or continuing tax exemption or foundation classification and initial or continuing employee plan qualification, unless the case is covered by a National Office ruling or Technical Advice where the organization or plan has either no appeal right or a limited National Office appeal right [Reg § 601.106(a)(1)(v)].

Waiver: Tax Court Cases
The Office may shift jurisdiction to the Area Manager if a statutory Notice of Deficiency (90-day letter) was issued by an Area Manager or the Director of Foreign Operations Area. But this waiver is only effective during the period for filing with the United States Tax Court.

Tax Court Petition
Once a Tax Court petition is filed by the taxpayer, the Appeals Office retains jurisdiction to settle the case for a limited period of time. The interplay between the Area Counsel and the Appeals Office in these cases will be discussed in the Appeals Procedure section of this material [See Section 6.70].

Table 21. Appeals Workload, by Type of Case, Fiscal Year 2017

Type of case	Cases received	Cases closed [1]	Cases pending September 30, 2017
	(1)	(2)	(3)
Total cases [2]	**103,574**	**107,114**	**51,428**
Collection Due Process cases [3]	37,667	39,676	20,345
Examination cases [4]	30,657	33,344	16,906
Penalty appeals cases [5]	10,652	10,152	4,457
Offers in Compromise cases [6]	9,564	9,467	4,804
Innocent spouse cases [7]	3,407	2,465	2,350
Industry cases [8]	955	989	939
Coordinated industry cases [9]	88	139	202
Other cases [10]	10,584	10,882	1,425

United States Tax Court and Its Jurisdiction

The United States Tax Court is a court of record established by Congress under Article I of the U.S. Constitution. When the Commissioner of Internal Revenue has determined a tax deficiency, the taxpayer may dispute the deficiency in the Tax Court before paying any disputed amount. The Tax Court's jurisdiction also includes the authority to redetermine transferee liability, make certain types of declaratory judgments, adjust partnership items, order abatement of interest, award administrative and litigation costs, redetermine worker classification, determine relief from joint and several liability on a joint return, review certain collection actions, and review awards to whistleblowers who provide information to the Commissioner of Internal Revenue on or after December 20, 2006.

Judges
The Tax Court is composed of 19 presidentially appointed members. Trial sessions are conducted and other work of the Court is performed by those judges, by senior serving on recall, and by special trial judges. All of the judges have expertise in the tax laws and apply that expertise in a manner to ensure that taxpayers are assessed only what they owe, and no more. Although the Court is physically located in Washington, D.C., the judges travel nationwide to conduct trials in various designated cities.

Life Cycle of a Tax Court Case
A case in the Tax Court is commenced by the filing of a petition. The petition must be timely filed within the allowable time. The Court cannot extend the time for filing which is set by statute.

A $60 filing fee must be paid when the petition is filed. Once the petition is filed, payment of the underlying tax ordinarily is postponed until the case has been decided.
In certain tax disputes involving $50,000 or less, taxpayers may elect to have their case conducted under the Court's simplified small tax case procedure. Trials in small tax cases generally are less formal and result in a speedier disposition. However, decisions entered pursuant to small tax case procedures are not appealable.

Cases are calendared for trial as soon as practicable (on a first in/ first out basis) after the case becomes at issue. When a case is calendared, the parties are notified by the Court of the date, time, and place of trial. Trials are conducted before one judge, without a jury, and taxpayers are permitted to represent themselves if they desire. Taxpayers may be represented by practitioners admitted to the bar of the Tax Court.

Most cases are settled by mutual agreement without trial. However, if a trial is conducted, in due course a report is ordinarily issued by the presiding judge setting forth findings of fact and an opinion. The case is then closed in accordance with the judge's opinion by entry of a decision.

Other Courts
In addition to the Tax Court, federal tax matters can be heard and decided in three other courts: U.S. District Courts, the Court of Federal Claims, and the Bankruptcy Court. In the first two instances, the taxpayer bringing the claim generally must have first paid the deficiency determined by the IRS. For the Bankruptcy Court, the tax matter must, of course, arise as an issue in a bankruptcy proceeding. Bankruptcy Court appeals are initially to the U.S. District Court. Appeals beyond the U.S. District Courts and the Court of Federal Claims follow the same path as those from the U.S. Tax Court as described above.

Jurisdiction of the Tax Court
The Tax Court provides a judicial forum in which affected persons can dispute tax deficiencies determined by the Commissioner of Internal Revenue prior to payment of

the disputed amounts. The jurisdiction of the Tax Court includes, but is not limited to the authority to hear:

1. tax disputes concerning notices of deficiency
2. notices of transferee liability
3. certain types of declaratory judgment
4. readjustment and adjustment of partnership items
5. review of the failure to abate interest
6. administrative costs
7. worker classification
8. relief from joint and several liability on a joint return
9. review of certain collection actions

Congress amended the Internal Revenue Code, now codified in Internal Revenue Code section 7482, providing that decisions of the Tax Court may be reviewed by the applicable geographical United States Court of Appeals other than the Court of Appeals for the Federal Circuit.

"Small Tax Cases" are conducted under Internal Revenue Code section 7463, and generally involve only amounts in controversy of $50,000 or less for any one tax year. The "Small Tax Case" procedure is available "at the option of the taxpayer." These cases are neither appealable nor precedential.

At times there have been efforts in the Congress and the Tax Bar to create a single national Court of Appeals for tax cases (or make Tax Court decisions appealable to a single existing Court of Appeals), to maintain uniformity in the application of the nation's tax laws (the very reason underlying the creation of the Tax Court and the grant of national jurisdiction to the Tax Court), but efforts to avoid "hometown results" or inconsistent results due to a lack of expertise have failed.

With this number of courts involved in making legal determinations on federal tax matters including all 13 United States Courts of Appeals exercising appellate jurisdiction (the 11 numbered Circuits, the Federal Circuit (for appeals from the U.S. Court of Federal Claims), and the D.C. Circuit), some observers express concern that the tax laws can be interpreted differently for like cases. Thus arises the movement on the part of some for a U.S. Court of Federal Tax Appeals, though the merits of this are a matter of much discussion.

Criminal Investigation

Criminal Investigation Unit

IRS Criminal Investigation (CI) is comprised of approximately 4,400 employees worldwide, approximately 2,500 of which are special agents whose investigative jurisdiction includes tax, money laundering and Bank Secrecy Act laws. While other federal agencies also have investigative jurisdiction for money laundering and some

bank secrecy act violations, IRS is the only federal agency that can investigate potential criminal violations of the Internal Revenue Code.

Recognizing Danger

Even though not many people are prosecuted for tax crimes, the individual tax practitioner must be able to recognize when a client is in danger of prosecution. An EA or a CPA does not have a privilege with respect to criminal conduct of her client. Therefore, on any occasion when one suspects that a client may be subject to a criminal investigation, the matter should be immediately referred to an attorney. There are certain telltale signs of potential criminal investigation and we must be ever vigilant to spot those indicators.

Criminal Investigation Division's Annual Report

From shady tax preparation businesses to identity theft gangs to corrupt IRS agents, the IRS Criminal Investigation division's annual report reviewing its accomplishments in 2014 reveals the wide range of criminal tax activities it investigated in the past year. And, the report points out, despite a continued significant decline in staffing, the division maintained a conviction rate of more than 93%, which it noted "reflects the quality of ...[its] casework"

Prior years

Actions	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Investigations Initiated										
Tax Investigations	2445	2516	2283	2612	2889	2652	2987	3325	2743	2246
Other Financial Crimes	1462	1695	1466	1509	1817	2038	2138	1989	1554	1607
Total	3907	4211	3749	4121	4706	4720	5125	5314	4297	3853
Prosecution Recommendations										
Tax Investigations	1351	1430	1297	1278	1507	1610	1790	2422	2031	1729
Other Financial Crimes	1369	1407	1488	1292	1527	1800	1911	1942	1447	1560
Total	2720	2837	2785	2570	3034	3410	3701	4364	3478	3289
Indictments/ Informations										
Tax Investigations	1169	1126	1171	1141	1250	1325	1531	2134	1927	1666
Other Financial Crimes	1150	1197	1376	1194	1395	1673	1859	1731	1345	1542
Total	2319	2323	2547	2335	2645	2998	3390	3865	3272	3208
Sentenced										
Tax Investigations	996	1112	1016	1113	1054	1162	1210	1455	1796	1664
Other Financial Crimes	1024	1011	941	1116	1118	1044	1256	1357	1472	1428

Actions	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Total	2020	2123	1957	2229	2172	2206	2466	2812	3268	3092

Deterrence

Compliance with the tax laws in the United States relies heavily on self-assessments of what tax is owed. This is called voluntary compliance. When individuals and corporations make deliberate decisions to not comply with the law, they face the possibility of a civil audit or criminal investigation which could result in prosecution and possible jail time. Publicity of these convictions provides a deterrent effect that enhances voluntary compliance.

Special Agents

As financial investigators, CI special agents fill a unique niche in the federal law enforcement community. Today's sophisticated schemes to defraud the government demand the analytical ability of financial investigators to wade through complex paper and computerized financial records. Due to the increased use of automation for financial records, CI special agents are trained to recover computer evidence. Along with their financial investigative skills, special agents use specialized forensic technology to recover financial data that may have been encrypted, password protected, or hidden by other electronic means.

Retention by Attorney

If the client becomes the subject of a criminal investigation, an accountant or EA may gain some of the protection of the attorney/client privilege by having the client retain an attorney and the attorney in turn retaining the accountant to assist him in the defense of the client's case. The IRC Sec. 7535 practitioner/client privilege does not apply in criminal tax matters. However, there is an attorney/client privilege. Courts have held that an accountant working for an attorney on behalf of a criminal defendant gains the protection of the attorney/client privilege.

Need for EA and/or Accounting Assistance

When a client becomes subject to a criminal investigation most competent white collar defense attorneys will retain the services of an EA or CPA to assist in the defense of the taxpayer. The EA/CPA role could include reconstructing financial records and determining the extent of any omissions or commissions of the client.

Organization of the Criminal Investigation Division

CI Location

The Chief, Criminal Investigation is in the IRS headquarters office located in Washington, DC. The Chief directs the policies and programs for IRS Criminal Investigation nationwide. Those responsibilities include the enforcement of the criminal statutes relative to tax administration and related financial crimes; violations of the Bank Secrecy Act, and the Money Laundering Control Act.

Strategic Plan
The Criminal Investigation strategic plan is comprised of three interdependent programs: Legal Source Tax Crimes; Illegal Source Financial Crimes; and Narcotics Related Financial Crimes. These three programs are mutually supportive, and encourage utilization of all statutes within CI's jurisdiction, the grand jury process, and enforcement techniques to combat tax, money laundering and currency crime violations. Criminal Investigation must investigate and assist in the prosecution of those significant financial investigations that will generate the maximum deterrent effect, enhance voluntary compliance, and promote public confidence in the tax system.

Field Offices
CI divided into thirty-five field offices. Each field office has a Special Agent in Charge to direct, monitor, and coordinate the criminal investigation activities within that office's area of responsibility. Several smaller posts-of-duty are located within each field office.

High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces
(Mandated in the National Money Laundering Strategy) HIFCAs occupy the flagship role in the nation's efforts to disrupt and dismantle large-scale money laundering systems and organizations. The designation of a HIFCA is intended to concentrate law enforcement efforts at the federal, state, and local level on combating money laundering in high-intensity money laundering zones, whether based on drug trafficking or other crimes. The 2001 Money Laundering Strategy announced the designation of two new HIFCA locations: Northern District of Illinois (Chicago) and Northern District of California (San Francisco). The four HIFCAs named in the 2000 strategy were: New York/New Jersey; San Juan/Puerto Rico; Los Angeles; and a "Southwest Border systems HIFCA," designed to address cross-border currency smuggling in Texas/Arizona to and from Mexico. HIFCAs are composed of all relevant federal, state, and local enforcement authorities; prosecutors; and federal financial supervisory agencies as needed. They work closely with the High Intensity Drug Trafficking Areas (HIDTA) and Organized Crime Drug Enforcement Task Forces (OCDETF) and focus on collaborative investigative techniques. In 2003 The HIFCA Executive Board approved a South Florida HIFCA which is centralized in Miami.

Fraud Detection Centers
Across the United States there are ten Fraud Detection Centers. The Fraud Detection Centers will detect refund fraud and identify prevention measures. Each Center has a Resident Agent in Charge to direct, monitor, and coordinate operations that support electronic and paper tax filing. The Center activities include educating Submission Processing Center and Customer Service Center personnel on fraud awareness and detection.

The History of Criminal Investigation
Criminal Investigation began shortly after the Revenue Act of 1913 The Revenue Act of 1913 imposed a modest tax of 1 percent on net incomes of individuals, estates, trusts

and corporations. An additional tax, or surtax, graduated from 1 to 6 percent, was applied to income exceeding $20,000. Numerous internal revenue laws since that time have made changes in rates and other aspects of revenue assessment. Tax evasion is not new. As early as 1919, many serious allegations concerning alleged tax frauds were identified by the Internal Revenue Service. It commenced its first narcotics investigation of an opium trafficker in Hawaii in the early 1920's, obtaining tax evasion charges against the leader of that organization.

Establishment of Fraud Investigation
On July 1, 1919, the IRS Commissioner created the Intelligence Unit to investigate widespread allegations of tax fraud. To establish the Intelligence Unit, six United States Post Office Inspectors were transferred to the Bureau of Internal Revenue to become the first special agents in charge of the organization that would one day become Criminal Investigation. They formed the nucleus that built the Intelligence Unit into an elite group of highly trained, dedicated professionals, who are recognized as the finest financial investigators in the world.

Sending Criminal Figures to Prison
It was this first group of agents who were responsible for sending numerous notorious gangsters, racketeers and other criminal figures to prison, most notably, Public Enemy Number One, Al Capone. Since that time, many under-world leaders have gone to prisons on Federal tax charges including New York Godfather John Gotti and Chicago crime boss Rocco Infelise.

Intelligence Unit Gains National Prominence
The Intelligence Unit quickly became renowned for the financial investigative skill of its special agents. It attained national prominence in the thirties for the conviction of public enemy number one, Al Capone, for income tax evasion, and its role in solving the Lindbergh kidnapping. From these promising beginnings the Intelligence Unit expanded over the intervening decades, investigating tax evasion by ordinary citizens, prominent businesspersons, government officials, and notorious criminals.

Name Change to Criminal Investigation Unit
In July 1978, the Intelligence Unit changed its name to Criminal Investigation (CI). Over the years CI's statutory jurisdiction expanded to include money laundering and currency violations in addition to its traditional role in investigating tax violations. However, Criminal Investigation's core mission remains unchanged. It continues to fulfill the important role of helping to ensure the integrity and fairness of our nation's tax system.

Criminal Investigation Enforcement Activities
Although the investigation of people with illegal income is an important aspect of Criminal Investigation enforcement activities, it is only one part of a balanced enforcement program that attempts to ensure compliance among all groups of taxpayers. Over the years, investigative activity has resulted in individuals being convicted for tax evasion in almost every occupation, profession and segment of the economy, and has also resulted in the convictions of many corporations.

Conviction Rate
Since CI's inception in 1919 to the present, the conviction rate for Federal tax prosecutions has never fallen below 90 percent. This is a record of success that is unmatched in Federal law enforcement.

IRS Criminal Investigation Mission

CI Serves Public
"Criminal Investigation (CI) serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law."

How Does Criminal Investigation Support the IRS Mission?
The IRS mission is . . . "Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all." The Internal Revenue Service is responsible for collecting over 90% of all dollars collected by the United States Government.

Trying to Corrupt American System of Taxation
When people or businesses try to corrupt the American system of taxation through illegal activities, CI special agents step in to enforce the tax and money laundering laws. The fact is -- all income is taxable, even income earned through illegal sources.

Examples of Types of Crime
Tax evasion, abusive trust schemes, health care fraud, telemarketing fraud, and even drug trafficking are some examples of the types of crime that revolve around money. When a financial crime is committed, a financial investigation is the key to a conviction. In a financial investigation, traditional law enforcement investigative tools such as crime scene analysis and physical evidence can fall short in proving the crime. With no proof, there is no conviction. The techniques used in a financial investigation by CI special agents involve following the movement of money through paper and computerized records. The link between where the money comes from, who gets it, when it is received and where it is stored or deposited, can provide proof of criminal activity. CI special agents have earned the distinguished title, "Accountants with Convictions."

The Money Trail:
IRS Criminal Investigation finds the criminal or crime by tracing the money.

Legal Source Tax Crimes - Criminal Investigation (CI)
Criminal Investigation's (CI) primary resource commitment is to develop and investigate Legal Source Tax Crimes. The prosecution of these cases is key to supporting the Service's overall compliance goals, enhancing voluntary compliance with the tax laws, and promoting fairness and equity in our tax system. Legal Source Tax investigations involve taxpayers in legal industries and legal occupations, who earned income legally, but choose to evade taxes by violation of tax laws.

Threaten the Tax System
The Legal Source Tax Crimes Program includes those cases that threaten the tax system, such as the Questionable Refund Program (QRP) cases, unscrupulous return preparers and frivolous filers/non-filers who challenge the legality of the filing requirement. Additional important elements of the program are excise tax and employment tax investigations. This Program emphasizes the importance of cooperation between Service compliance functions as well as with Chief Counsel's Office and Department of Justice Tax Division.

Illegal Source Financial Crimes
The Illegal Source Financial Crimes Program recognizes that money gained through illegal sources, such as dollars obtained through illegal gambling operations, is part of the untaxed underground economy. This untaxed underground economy is a threat to our voluntary tax compliance system and undermines the overall public confidence in our tax system. After all, the Internal Revenue Code states that all income is taxable, from whatever source derived.

Illegal Sources
When money is derived through illegal sources, the primary concern for the criminal is to legitimize the dollars. This process of "cleaning" the illegally obtained dollars is termed "money laundering." Money laundering activity is considered to be "tax evasion in progress."

Use of Criminal Tax laws
The Illegal Source Financial Crimes Program encompasses all tax and tax-related violations, as well as money laundering and currency violations. In fact, money laundering and currency violations are often intertwined with tax violations. As part of the criminal charges against an individual, Criminal Investigation (CI) makes effective use of the forfeiture statutes. Forfeiture statutes deprive individuals and organizations of their illegally obtained cash and assets.

Narcotics-Related Investigations
One look at the daily newspaper is proof enough that crimes dealing with or motivated by money make up the majority of current criminal activity in the nation. Tax evasion, public corruption, health care fraud, and even drug trafficking are all examples of the types of crimes that revolve around money. In these cases, a financial investigation often becomes the key to a conviction.

Simple
It's really pretty simple: No matter what the source of income -- all income is taxable. And this creates a real problem for drug dealers. What are they going to do with their money -- so that IRS won't find it? For the IRS, money laundering and narcotics investigations are the compliance effort to address criminal violations of the Bank Secrecy Act, the Money Laundering Control Act of 1986 and section 6050(I) of the Internal Revenue Code.

Why a Financial Investigation?
Financial investigations are by their nature very document intensive. Specifically, they involve records, like bank account information and real estate files, which point to the movement of money. Any record that pertains to, or shows the paper trail of events

involving money is important. The major goal in a financial investigation is to identify and document the movement of money during the course of a crime. The link between where the money comes from, who gets it, when it is received and where it is stored or deposited, can provide proof of criminal activity.

What Training is Needed to Become a CI Special Agent?

Qualifications to Become CI Special Agent

Candidates for IRS Criminal Investigation special agents must be a U.S. citizen, must not have reached their 37th birthday, and must meet education and/or experience qualifications listed at the end of this brochure. Special agent candidates are required to attend a comprehensive training program at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. Training begins with a one-week orientation program sponsored by the National Criminal Investigation Training Academy. Students then attend a nine-week Criminal Investigation Training Program covering basic Federal criminal investigation techniques including federal criminal law, courtroom procedures, enforcement operations, interviewing and firearms training common to all Federal law enforcement agents. This segment of training includes new Treasury agents from Customs, Alcohol Tobacco and Firearms, Secret Service and others federal law enforcement agencies. After the basic training is completed, the candidates continue on to CI's 16 week specialized training which includes instruction in tax law, criminal tax fraud, money laundering, and a variety of financial fraud schemes. They are also introduced to agency specific undercover operations, electronic surveillance techniques, forensic sciences, court procedures, interviewing techniques and trial preparation and testifying.

CI Special Agent Training

The training emphasizes the development of both technical and behavioral skills. It incorporates a highly interactive methodology of course delivery coupled with a high expectation of trainee interaction throughout the program. It is designed to provide new agents with the opportunity to learn and practice progressively more complex tasks required to be performed on the job. This is accomplished through a combination of practical exercises, simulated cases, and classroom facilitated learning.

Specialized Computer Investigative Skills

With an increase in the automation of financial records, there is a need for CI special agents to be specially trained in recovering computer evidence. Those special agents interested in becoming a Computer Investigative Specialist (CIS) must complete a variety of computer courses which provide the agent with the tools and knowledge to perform forensic data recovery and analysis of electronic data. The training begins with a pre-basic 2-week course, which is followed by a 3-week Computer Evidence Recovery Training course at the Federal Law Enforcement Training Center. A newly trained CIS then attends a 3-week Computer Evidence Analysis Training course at the University of North Texas. Finally, one year after a CIS initial training, the agent attends a 21/2-week Advanced Computer Evidence Recovery Training course to learn about computer network issues and more advanced data recovery.

Agents Use Investigative Skills

Computer equipment seized for financial records may contain data that has been encrypted, password protected or otherwise hidden. Agents use their investigative skills and specialized equipment to recover this data as substantial evidence to convict individuals on tax law or money laundering violations. Computer Investigative Specialists receive a laptop, two desktop computers and numerous other equipment and software to assist in their investigations.

Origin of Cases

Gathering Information

Criminal investigations may stem from information discovered by internal revenue agents in the course of their audits and examinations; by special agents who may learn of indications of tax noncompliance and, when authorized, develop such information; by Criminal Investigation through making authorized surveys of selected individuals, groups, or activities; through analysis of cases, special studies, and authorized surveys; and by revenue officers or other employees of the Internal Revenue Service in the performance of their duties. Information of multiple address changes and identical names involved in income tax refunds may be received from a service center. This information may indicate false claims for refund. Information returns may furnish a basis for referrals.

Other Sources

Investigations may also stem from information received from other Government agencies; from application for the redemption of mutilated currency; from newspapers, magazines, and other publications; and from the general public. Criminal Investigation in districts where local customs officers are maintained may, when authorized, request from such offices information relating to importers who are suspected of substantially undervaluing merchandise. This may be a lead to attempted tax evasion.

Referrals from IRS Employees

IRS Employees are encouraged to continue to be alert for indications of noncompliance which come to their attention. District Criminal Investigation employees will report such information as provided in IRM 9391.5:(2). Examination, Collection and TE/GE employees will report such information as provided in their respective sections of the IRM. All other IRS employees will report such information via memorandum through channels to Criminal Investigation. Indications of noncompliance identified by service center, and local IRS employees will be forwarded to Criminal Investigation at the appropriate compliance center. Failure on the part of Service employees to report in writing violations or frauds within their knowledge is punishable by dismissal, fine, and imprisonment. (Section 7214(a)(8), Internal Revenue Code of 1954.)

Referral Procedure

The Internal Revenue manual sets forth the following guidelines for employee referrals:

(1) If, during the course of an examination an examiner/officer discovers firm indications of fraud, he/she will suspend his/her activities at the earliest practicable opportunity without disclosing to the taxpayer, his/her representative, if any, or his/her employees the reason for such suspension.
(2) Any examiner who discovers indications of fraud, and any revenue officer who discovers an indication that a taxpayer's failure to file a required return is willful (or any other indications of fraud), will prepare a report of his/her findings, utilizing Form 2797, Referral Report of Potential Criminal Fraud Cases. The original and two copies of the referral form (without work papers, attachments, etc.) will be forwarded to a Criminal Investigation group manager. Referrals from EP/EO will be forwarded to a Criminal Investigation group manager of the district in which the taxpayer is located.
(3) Notification to the appropriate division of the action taken by Criminal Investigation will still be handled in accordance with IRM 9322.2. [IRM 9322.1]

Whistleblower - Informant Award
The IRS Whistleblower Office pays money to people who blow the whistle on persons who fail to pay the tax that they owe. If the IRS uses information provided by the whistleblower, it can award the whistleblower up to 30 percent of the additional tax, penalty and other amounts it collects.

Who can get an award?
The IRS may pay awards to people who provide specific and credible information to the IRS if the information results in the collection of taxes, penalties, interest or other amounts from the noncompliant taxpayer. The IRS is looking for solid information, not an “educated guess” or unsupported speculation. We are also looking for a significant Federal tax issue - this is not a program for resolving personal problems or disputes about a business relationship.

What are the rules for getting an award?
The law provides for two types of awards. If the taxes, penalties, interest and other amounts in dispute exceed $2 million, and a few other qualifications are met, the IRS will pay 15 percent to 30 percent of the amount collected. If the case deals with an individual, his or her annual gross income must be more than $200,000. If the whistleblower disagrees with the outcome of the claim, he or she can appeal to the Tax Court. These rules are found at Internal Revenue Code IRC Section 7623(b) - Whistleblower Rules.

Other Whistleblowers Award Program
The IRS also has an award program for other whistleblowers - generally those who do not meet the dollar thresholds of $2 million in dispute or cases involving individual taxpayers with gross income of less than $200,000. The awards through this program are less, with a maximum award of 15 percent up to $10 million. In addition, the awards

are discretionary and the informant cannot dispute the outcome of the claim in Tax Court. The rules for these cases are found at Internal Revenue Code IRC Section 7623(a) - Informant Claims Program, and some of the rules are different from those that apply to cases involving more than $2 million. If you decide to submit information and seek an award for doing so, use IRS Form 211. The same form is used for both award programs.

Offshore Accounts
On February 18, 2009, UBS AG, Switzerland's largest bank, IRS announced it had entered into a deferred prosecution agreement on charges of conspiring to defraud the United States by impeding the IRS. The IRS investigation into hidden foreign bank accounts has exploded since that time, reaching many other countries which are now cooperating with the United States in ongoing investigations.

Agreements
As part of the deferred prosecution agreement and in an unprecedented move, UBS, based on an order by the Swiss Financial Markets Supervisory Authority (FINMA), has agreed to immediately provide the United States government with the identities of, and account information for, certain United States customers of UBS's cross-border business. Under the deferred prosecution agreement, UBS agreed to expeditiously exit the business of providing banking services to United States clients with undeclared accounts. As part of the deferred prosecution agreement, UBS further agreed to pay $780 million in fines, penalties, interest and restitution.

Many Taxpayers and Bankers Criminally Charged
Since the announcement of the UBS plea bargain, the IRS has indicted many taxpayers from all parts of the country for not reporting their offshore accounts. Most have pleaded guilty and been sentenced. Taxpayers with unreported foreign accounts continue to face prosecution absent a voluntary disclosure of the accounts to the IRS. Latest IRS reports assert that over 80 individuals have been indicted as a result of the new offshore enforcement initiative.

Offshore Voluntary Disclosure Initiative
Since 2009, 47,000 individuals have come forward voluntarily to disclose their foreign financial accounts, taking advantage of special opportunities to bring their money back into the U.S. tax system and resolve their tax obligations. And, with new foreign account reporting requirements being phased in over the next few years, hiding income offshore will become increasingly more difficult.

Offshore Voluntary Disclosure Program (OVDP)
At the beginning of 2012, the IRS reopened the Offshore Voluntary Disclosure Program (OVDP) following continued strong interest from taxpayers and tax practitioners after the closure of the 2011 and 2009 programs. IRS has collected over $7 billion through the programs.

In June, 2014, changes and new guidelines for disclosure were put into place by the IRS. The implication of these changes is still under consideration. See, *Offshore Voluntary Disclosure Program Frequently Asked Questions and Answers,* at IRS.gov*,* updated June 18, 2014.

Taxpayer Interview

SA's use specific procedure when they interview a taxpayer who is the subject of a CID investigation. Two SA's (they travel in pairs like nuns) will arrive at your client's home or business without an appointment. The special agent will then advise the subject of the investigation substantially as follows:

> "In connection with my investigation of your tax liability (or other matter), I would like to ask you some questions. However, first I advise you that under the Fifth Amendment to the Constitution of the United States I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way. I also advise you that anything which you say and any documents which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of an attorney before responding."

Taxpayer Asked to Waive Rights

The SA's will then ask your client to waive her rights. If the taxpayer waives her constitutional rights the SA's will immediately begin the interview. Many times the Special Agents will assure the taxpayer that the investigation may be easily resolved if the taxpayer cooperates and tells her side of the story. (It probably will be easier to resolve the case if the TP talks because she will make admissions against interest.) If your client calls you when the SA's arrive tell her to decline the interview and immediately refer the matter to a criminal tax attorney. No taxpayer should ever consent to a CID interview without first consulting a lawyer.

Special Agent Guidelines

Special agents are given the following guidelines for conducting taxpayer interviews:

> "(1) The investigating officers should attempt to hold discussions or interviews with the principal during the course of an investigation for the purpose of obtaining all available information and, at the same time, giving the principal every opportunity to explain his/her participation in the alleged criminal violation. At every such discussion or interview, it is desirable that there be present at least two investigating officers, or one officer and an IRS stenographer. A record or summary shall be made of such proceedings pursuant to the instructions in IRM 9353.
>
> (2) Care must be taken to avoid making statements of any kind in discussion with a principal or his/her representatives which might be construed as a compromise of any criminal features of the investigation."

Report of Interrogation
SA's prepare written report of taxpayer interrogations and witness interviews. The IRM sets forth the following specific guidelines:

(1) Facts pertinent to an investigation developed during an interrogation or conference should be reduced to writing. This can be done in the following manner:

a) the interrogator may prepare and sign a memorandum of information obtained;
b) a formal affidavit may be prepared for the signature of the person making the statements, incorporating the pertinent facts; or
c) the questions asked by the interrogator and the answers given under oath may be recorded verbatim.

(2) The officer who administers the oath should complete the jurat on the affidavit or transcribed questions-and-answer statement. Any other officer present during the interrogation or conference should also sign the memorandum, affidavit, or statement as a witness. Any apparent differences of recollection between the officers of the interrogation or conference as to what was said should be resolved as soon after the interrogation or conference as possible, before completion of the memorandum thereof.

(3) An interrogation or conference may be recorded only by a stenographer who is an employee of the IRS. This rule may be waived by the agent's immediate superior. At the request of the Service or witness, which includes a principal, the superior may authorize the use of a stenographer employed by the United States Attorney, a court reporter of the United States District Court, a reporter licensed or certified by any State as a court reporter or to take depositions, or an independent reporter known to the Service to be qualified to take depositions for use in a United States District Court. The use of this procedure may be permissible under IRC 6103(n) where the Service contracts with a non-Service reporter or stenographer; under IRC 6103(c), taxpayer waiver; or under IRC 6103(k)(6) where a disclosure is necessary for investigative purposes. When no stenographer is readily available, mechanical recording devices may be used to record statements by advising the witness, in advance, of the use of the device (implied consent). If the witness objects, the interrogator will refrain from mechanically recording the statement. If the witness elects to mechanically record the conversation, the Service will make its own recording.

(4) A witness or principal will be permitted to engage a qualified reporter as described in (3) above to be present at his/her expense to transcribe testimony, provided that the Service may secure a copy of the transcript at its expense or record the testimony using a mechanical recording device or its own stenographer or reporter. However, the Service retains the right to refuse to permit verbatim recording by a non-Service reporter or stenographer on the grounds that disclosure would "seriously impair Federal tax administration" (see text 212:(2) and 317:(7) of IRM 1272, Disclosure of Official Information Handbook, and Delegation Order No. 156 (as revised)).

(5) Upon request, a copy of an affidavit or transcript of a question and answer statement will be furnished a witness promptly, except when it is determined by the District Director that release should be delayed until such time as it will not interfere with the development or successful prosecution of an investigation. (See text 343.3 of IRM 9781, Handbook for Special Agents, and 26 CFR 601.107(b)(1).)