

A new perspective

Decoding
The

U.S. Tax Code

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By: C. M. Watson

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Introduction

I have spent countless hours researching the U.S. income tax question.

I was actually looking for something completely different online, when I ran across some information about the income tax that intrigued me. Some of it sounded a little far-fetched, but enough of it made sense that I decided to do more research.

I ended up with a feeling of cognitive dissonance when looking at various aspects of the question – from what researchers were presenting to what the government had to say in response, it just didn't add up.

Then one day I found some information that helped it all make sense to me. I've discovered that a great deal of the Tax Code (Title 26) is rooted in Congress' authority under the U.S. Constitution to regulate foreign commerce. What is to follow are the most persuasive pieces of information I found that led me to that conclusion. However there are a lot of smaller pieces of the puzzle that aren't included, yet help to form the same picture.

While some of this information is known by other researchers, some of it is brand new as far as I know. It should help put the pieces together and then harmony can be restored.

The Internal Revenue Code (IRC) applies to many different types of taxes, and my research suggests that the income tax, as well as a lot of the rest of the Code, is related primarily to foreign commerce and trade. While the individual income tax was implemented in 1913 after the enactment of the 16th amendment, the corporate income tax was implemented before that, in 1909. They were both tariff acts, relating solely to foreign commerce and trade. After showing some definitions, the income tax history is shown in more detail.

That will be followed by some history about trade agreements, which will then be shown to be the vehicle used in revisions to the tax code, including the enacting legislation where the U.S. joined the World Trade Organization and the North American Free Trade Agreement. This is important, because Congress would not make changes to the tax code while implementing trade agreements, unless there were a direct relationship to the IRC and foreign commerce and trade.

Then I'll show some other pieces of information that lead to the same conclusion, which is that the income tax has strong ties to and applies primarily to foreign commerce only.

I apologize for the Endnotes showing up on page 49 instead of at the end of the document. It appears to be an issue with the formatting of these in MS Word when I originally wrote it and when I imported it into LibreOffice in 2024. I couldn't find a good way to fix it.

1. Definitions and other first things

I wanted to start off defining a few things, as well as give some basics for terms that will be used.

We'll start with one of the Founding Documents of our country, The U.S. Constitution. It's not terribly long, but I'm just going to show the portions that are relevant to this publication, which will cover a lot of it anyway.

THE CONSTITUTION OF THE UNITED STATES ¹

Preamble:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 2. ... Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. ...(clause 3)

Section 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills. ...(clause 1)

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; ... (clause 1)

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes; ... To make rules for the government and regulation of the land and naval forces; (clause 3)

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress; (clause 16)

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;--And (clause 17)

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof. (clause 18)

Section 9. ... No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken. (clause 4)

No tax or duty shall be laid on articles exported from any state. (clause 5)

Section 10. No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. (clause 2)

Article II

Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows: ...(clause 1)

Section 2: ... He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments. (clause 2)

Article IV

Section 3 ... The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state. (clause 2)

Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty seven...

Note: The following text is a transcription of the first 10 amendments to the Constitution in their original form. These amendments were ratified December 15, 1791, and form what is 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 IV (4th)

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 offence 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 X (10th)

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.

AMENDMENT XVI (16th)

Passed by Congress July 2, 1909. Ratified February 3, 1913.

The Congress shall have 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.

Before I go on to the other descriptions or definitions, I wanted to add that they may not be technically or exactly correct. I'm not a lawyer, and most of what I'll outline are things I've puzzled out for myself. As an example, when I saw reference to Pub. L. (number), I wasn't sure what a 'Pub. L.' was, but it looked important so I kept asking myself and researching until I figured it out.

Public Law

And that's where I'll start. Pub. L. stands for Public Law. Currently, when a bill or act is finalized and enacted, it is assigned a number. The first number of the public law refers to the session of Congress under which it was passed. For instance, now in the year 2003, the current Congressional session is the 108th Congress. Then the second number is probably assigned in order, as in 1,2,3, etc. Public Laws from approximately 1996 are available online. For instance, the 'Homeland Security' bill passed last year is Public Law / Pub. L. 107-296.

Until sometime in the early/mid 1900's, bills or acts were referred to by statute number (i.e. 18 Stat. 312, sometimes preceded by the date of enactment.) And referring to the 1939 Internal Revenue Code (IRC), they referred to Act dates (i.e. the Payne-Aldrich Tariff Act of 1909 is referred to as 'the act of Aug. 5th, 1909'). The laws or individual statutes or revisions go into what is called The Statutes At Large. Prior to that, in the late 1700's to some time that I'm not sure about, they were referred to as the Revised Statutes. (R.S.) For instance, in the 1939 IRC, Sec. 3745 (b), in part says: "... when authorized or sanctioned by the Commissioner and directed by the Attorney General, see R.S. 838 as amended by Feb. 27, 1877, c. 69, s. 1, 19 Stat. 241 (U.S.C., Title 28 § 486)." And yes, the year really is 1877; it's not a typo.

Short Title

When they pass a law or an act, it's given what is called a 'short title'. For instance, in the aforementioned 'Homeland Security' bill, it looks like this:

Public Law 107–296²

107th Congress

An Act

To establish the Department of Homeland Security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

The above was a 'cut & paste' directly from the adobe acrobat version (.pdf) of the public law I downloaded from the U.S. Government Printing Office website. Sometimes they'll have several 'short titles' within one overall act, however.

United States Code (U.S.C.)

And that brings us to the United States Code. It's abbreviated as USC or U.S.C. The actual 'laws' are contained in the Statutes At Large (previously Revised Statutes), and then they are arranged numerically into various Titles or Codes, depending on the agency or department or topic. For instance, the Internal Revenue Code is in Title 26, or 26 U.S.C. Those are the laws or statutes that are passed by the Congress. Since there are several department and agency changes with the Homeland Security Act, I will be referring to the ones in effect prior to whatever changes will be made subsequent to passage.

It appears that there is some juggling of previous functions performed by the (old) Bureau of Alcohol, Tobacco and Firearms (BATF), some going under the Department of Justice and some being retained by the Department of the Treasury under something called the Tax and Trade Bureau. So BATF was Title 27, not sure if or how that will change.

Also, some of the U.S. Customs inspection functions will be under the Department of Homeland Security, and I'm not sure how that will change Title 19, Customs Duties. And since some of the portions of both of those titles (and others) are a part of Title 26, Internal Revenue Code, I'm not sure how that will change. Whatever happens, I'm sure it'll be interesting.

So again, I'll be referring to Titles as they were prior to all of this re-shuffling of functions and departments. And here are the various Titles I'll be referring to, some more than others.

Title 7 – Agriculture
Title 19 – Customs Duties
Title 22 – Foreign Relations
Title 26 – Internal Revenue
Title 27 – Alcohol, Tobacco and Firearms

Regulations

Now we move onto regulations. Congress writes the laws, and then they usually give the authority to enforce the laws to the Executive Branch of the government, which is under the President.

For instance, in Title 7 – Agriculture ³

Sec. 15b. Cotton futures contracts, under subsection (c) it says:

(c) Definitions

For purposes of this section...

(4) Secretary

The term "Secretary" means the Secretary of Agriculture of the United States.

and then, subsection (j):

(j) Regulations

The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

The above comes directly from Title _7.doc. So the various Secretary's or whomever is designated to write regulations are given that authority by the statute. Then the proposed regulations are printed in the Federal Register (also currently available online from about 1995), generally asking for public comment in one form or another. After the public comment period (if one is given), final regulations are issued, and also published in the Federal Register. In order for the regulation to be implemented it must be published in the Federal Register.

Then the final regulation is implemented and they're arranged in what is called the Code of Federal Regulations. (CFR) They're also issued numerically, according to which Title of the USC they're derived from. But there is a little twist to all of this, and I'll explain it as best I can, though it may not be entirely correct.

In order to help find out where they've put an implementing regulation for a particular statute, they also produce what's called a 'parallel table of authorities', in the CFR Index. Below is the information at the introduction to the Table I downloaded from the GPO Access website.

PARALLEL TABLE OF AUTHORITIES AND RULES

The following table lists rulemaking authority (except 5 U.S.C. 301) for regulations codified in the Code of Federal Regulations. Also included are statutory citations which are noted as being interpreted or applied by those regulations.

The table is divided into four segments: United States Code citations, United States Statutes at Large citations, public law citations, and Presidential document citations. Within each segment the citations are arranged in numerical order:

For the United States Code, by title and section;

For the United States Statutes at Large, by volume and page number;

For public laws, by number; and

For Presidential documents (Proclamations, Executive orders, and Reorganization plans), by document number.

Entries in the table are taken directly from the rulemaking authority citation provided by Federal agencies in their regulations. Federal agencies are responsible for keeping these citations current and accurate. Because Federal agencies sometimes present these citations in an inconsistent manner, the table cannot be considered all-inclusive. The portion of the table listing the United States Code citations is the most comprehensive, as these citations are entered into the table whenever they are given in the authority citations provided by the agencies. United States Statutes at Large and public law citations are carried in the table only when there are no corresponding United States Code citations given.

This table is revised as of January 1, 2001.

Since we're talking about the Internal Revenue Code (26 U.S.C.), I'll show a portion of that below:

	CFR
Authorities	
26 U.S.C. (1986 I.R.C.)—Continued	
110	26 Part 1
121	26 Part 301
125	5 Part 892
126	7 Part 14
	26 Part 16a
129	26 Part 1

13226 Parts 1, 54
141 note31 Part 344
14226 Part 301
14826 Part 1
14926 Part 1

So from the above, we see that 26 USC section 125 (below) has an implementing regulation in 5 CFR part 892. (Title 5 is Federal Government employees.) And 26 U.S.C. 141 note, shows implementing regulation in title 31 part 344 – Title 31 is Money and Finance.

TITLE 26 - INTERNAL REVENUE CODE⁴
Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter B - Computation of Taxable Income
PART III - ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

-HEAD-

Sec. 125. Cafeteria plans

-STATUTE-

(a) General rule

Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

...

and then, 26 USC Section 126:

Sec. 126. Certain cost-sharing payments

-STATUTE-

(a) General rule

Gross income does not include the excludable portion of payments received under -

(1) The rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978.

...

This section has implementing regulations under both 7 CFR (Agriculture) part 14, and 26 CFR (Internal Revenue) part 16a. One interesting note is that a lot of the penalty statutes for Title 26 have implementing regulations in 27 CFR (Alcohol, Tobacco and Firearms). That's something I only recently discovered and haven't really researched, though it may make more sense as the information unfolds in this publication. But I'll leave it alone for now.

Regulations are referred to by putting the title number 1st, then letters CFR (Code of Federal Regulations) then the part number and section number. For instance, below is a portion of the table of contents from the 1997 regulations for 'items specifically excluded from gross income'.

ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

- 1.101-1 Exclusion from gross income of proceeds of life insurance contracts pay-able by reason of death.
- 1.101-2 Employees' death benefits.
- 1.101-3 Interest payments.
- 1.101-4 Payment of life insurance proceeds at a date later than death.
- 1.101-5 Alimony, etc., payments.
- 1.101-6 Effective date.

And from part 1, section 61 (also 1997), see part below:

COMPUTATION OF TAXABLE INCOME
DEFINITION OF GROSS INCOME, ADJUSTED
GROSS INCOME, AND TAXABLE INCOME

§ 1.61-1 Gross income.

(a) *General definition.* Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash. Section 61 lists the more common items of gross income for purposes of illustration. For purposes of further illustration, § 1.61-14 mentions several miscellaneous items of gross income not listed specifically in section 61. Gross income, however, is not limited to the items so enumerated.

(b) *Cross references.* Cross references to other provisions of the Code are to be found throughout the regulations under section 61. The purpose of these cross references is to direct attention to the more common items which are included in or excluded from gross income entirely, or treated in some special manner. To the extent that another section of the Code or of the regulations thereunder, provides specific treatment for any item of income, such other provision shall apply notwithstanding section 61 and the regulations thereunder. The cross references do not cover all possible items.

(1) For examples of items specifically included in gross income, see Part II (section 71 and following), Subchapter B, Chapter 1 of the Code. ...

If I wanted to point out where it talks about examples of items specifically included in gross income (last 2 sentences in the regulation), I'd note it as: 26CFR 1.61-1(b)(1). Sometimes it can make you (or me anyway,) a little cross-eyed trying to figure out which letters and numbers to refer to, especially in the case where your last (a) or (b) or whatever was pages ago, but with a little persistence and muttering under your breath, it can be done

2. 861/ Sources of income

While researching the income tax, I ran across a lot of different opinions and theories. Some seemed plausible, but tough to prove. One had to prove a negative (i.e. 'no law makes you liable'). I found a few websites where the 'source' issue was discussed, 1 or 2 of which have since had injunctions granted, essentially shutting them down. I believe they were deemed as running an 'abusive tax-avoidance scheme'. Like avoiding the payment of a tax is illegal. Imagine if you used to smoke, and quit. Then the government comes after you for not paying the tobacco tax you used to pay, and your non-payment is depriving them of funds. Would you not think that's a little ludicrous? Basically they got into trouble for charging others for assisting them with tax matters.

However, there is another site which is no longer running, and it provided what I believe to be the most concise and thorough treatment of the issue. The site was: <http://www.taxableincome.net> I downloaded the free report by the same name (taxable income), and read it several times. I looked up the current statutes and regulations mentioned in the report, and finally concluded that there was definitely something there. So I'll summarize, and suggest that you visit the site later if you're interested in a more thorough treatment of the issue. The basics are essential to understanding what is to follow in this publication, because the information I found basically explains the WHY behind what's being called the '861/source' issue.

(Note – as of July 2024 there is a 2007 version of the report available at <https://www.larkenrose.com/blog/861-blog.html>)

Basically, Title 26 -- The Internal Revenue Code, is an amalgamation of taxing / internal revenue laws that originated elsewhere in the Revised Statutes, or Statutes at Large. The IRC was developed to have a 'handy' reference point for all such laws pertaining to that subject. I had a copy of the Internal Revenue Code⁵ from 1939, on loan from the library. The Foreward says:

The preface to the original edition of the Code published by the Government stated in part as follows:

The Internal Revenue Code, approved February 10, 1939, and published in this volume as Public Act No. 1 of the Seventy-sixth Congress, is the first Federal act of its kind since the Revised Statutes of the United States, approved June 22, 1874. Title XXXV of the Revised Statutes embraces the general and permanent statutes relating exclusively to internal revenue, in force on December 1, 1873.

The internal revenue title, which comprises all of the Code except the preliminary sections relating to its enactment, is intended to contain all of the United States statutes of a general and permanent nature relating exclusively to internal revenue, in force on January 2, 1939; also such of the temporary statutes of that description as relate to taxes the occasion of which may arise after the enactment of the Code. These statutes are codified without substantive change and with only such change of form as is required by arrangement and consolidation. The title contains no provision, except for effective date, not derived from a law approved prior to January 3, 1939.

Prior to that, as far as I know, there were different revenue or tariff acts, but the IRC was developed so as to arrange and consolidate them into one place.

There will be occasional mention of the 1939 IRC throughout this publication, but for now we'll get back to the current Code. The 'current' version of the Code (Title 26) is the 1986 edition. And that was amending the act that enacted the 1954 Code. Of course, there are regular changes, and we'll get to that too.

The current Code is divided into different Subtitles. They are:

INTERNAL REVENUE TITLE

Subtitle

- A. Income taxes.
- B. Estate and gift taxes.
- C. Employment taxes.
- D. Miscellaneous excise taxes.
- E. Alcohol, tobacco, and certain other excise taxes.
- F. Procedure and administration.
- G. The Joint Committee on Taxation.
- H. Financing of Presidential election campaigns.
- I. Trust Fund Code.
- J. Coal industry health benefits. (FOOTNOTE 1)
(FOOTNOTE 1) Editorially supplied. Subtitle J added by Pub. L. 102-486 without corresponding amendment of title analysis.
- K. Group health plan requirements.

Then, those subtitles are divided into different parts, subparts, chapters, etc. And with that, every statute has a section number. After you look at various parts of it long enough, you can get a good idea which subtitle or chapter a particular section belongs to, because the sections are in numeric order. For this discussion on section 861, we'll be staying with Subtitle A – Income taxes, section 1. I'll be italicizing certain words or phrases for emphasis; otherwise it's all taken directly from the 1/2/01 (electronic) version of Title 26, or from 26 CFR. I'll enter [...] when it's not a complete citation. We'll start with section 1 of Title 26.

TITLE 26 - INTERNAL REVENUE CODE

Subtitle A - Income Taxes

CHAPTER 1 - NORMAL TAXES AND SURTAXES

Subchapter A - Determination of Tax Liability

PART I - TAX ON INDIVIDUALS

-HEAD-

Sec. 1. Tax imposed

-STATUTE-

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the *taxable income* of -

(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2) every surviving spouse (as defined in section 2(a)),
a tax determined in accordance with the following table:

If taxable income is:

The tax is:

Not over \$36,900

15% of taxable income.

Over \$36,900 but not over \$89,150

\$5,535, plus 28% of the excess
over \$36,900.

Over \$89,150 but not over \$140,000	\$20,165, plus 31% of the excess over \$89,150.
---	--

[...]

Sec. 3. Tax tables for individuals

-STATUTE-

(a) Imposition of tax table tax

(1) In general

In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the *taxable income* of every individual -

(A) who does not itemize his deductions for the taxable year,
and

(B) whose taxable income for such taxable year does not exceed the ceiling amount,

[...]

And then, chapter 11 imposes a tax on corporations, also imposed on *taxable income*. In the 1939 IRC, the tax was imposed on the 'net income', but it basically leads to the same place.

This brings us to section 63, where taxable income is defined, and then section 61 where gross income is defined. It seems a bit out of order to me, but that's the way it is.

Sec. 63. Taxable income defined

-STATUTE-

(a) In general

Except as provided in subsection (b), for purposes of *this subtitle*, the term "*taxable income*" means *gross income minus the deductions* allowed by this chapter (other than the standard deduction).

(b) Individuals who do not itemize their deductions

In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term "*taxable income*" means *adjusted gross income*, minus -

(1) the standard deduction, and

(2) the deduction for personal exemptions provided in section 151.

[...]

Subchapter B - Computation of Taxable Income

PART I - DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

-HEAD-

Sec. 61. Gross income defined

-STATUTE-

(a) General definition

Except as otherwise provided in this subtitle, gross income means all income from whatever *source* derived, including (but not limited to) the following *items*:

(1) Compensation for services, including fees, commissions, fringe benefits, and similar items;

(2) Gross income derived from business;

(3) Gains derived from dealings in property;

(4) Interest;

- (5) Rents;
 - (6) Royalties;
 - (7) Dividends;
 - (8) Alimony and separate maintenance payments;
 - (9) Annuities;
 - (10) Income from life insurance and endowment contracts;
 - (11) Pensions;
 - (12) Income from discharge of indebtedness;
 - (13) Distributive share of partnership gross income;
 - (14) Income in respect of a decedent; and
 - (15) Income from an interest in an estate or trust.
- (b) Cross references
 For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

Ok, so here's where most of us think we're receiving 'gross income', which in turn becomes 'taxable income' after deductions. But let's move on to section 861 now.

Subtitle A - Income Taxes
 CHAPTER 1 - NORMAL TAXES AND SURTAXES
 Subchapter N - Tax Based on Income From Sources Within or Without
 the United States
 PART I - SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN
 INCOME

-HEAD-

Sec. 861. Income from sources within the United States

-STATUTE-

(a) Gross income from sources within United States

The following *items of gross income* shall be treated as income from sources within the United States:

(1) Interest

Interest from the United States or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of noncorporate residents or domestic corporations not including -

(A) interest from a resident alien individual or domestic corporation, if such individual or corporation meets the 80-percent foreign business requirements of subsection (c)(1), and

(B) interest -

(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

[...]

Section 862 is 'Income from sources without the United States'. Which brings up question of which 'United States' we may be in, since 'United States' and/or 'State' has about 500 different definitions scattered throughout the statutes and regulations. (I may be exaggerating a tiny bit, with 500, but not by much!) But for our purposes, we'll just say we're in the United States which includes the several states of the Union. And that brings us to section 863:

Sec. 863. Special rules for determining source

-STATUTE-

(a) Allocation under regulations

Items of gross income, expenses, losses, and deductions, other than those specified in sections 861(a) and 862(a), shall be allocated or apportioned to sources within or without the United States, under regulations prescribed by the Secretary.

Secretary being Treasury Secretary. That will bring us to the regulations in 26CFR, part 1.

26 CFR 1.861-1:

TAX BASED ON INCOME FROM SOURCES WITHIN OR WITHOUT THE UNITED STATES
DETERMINATION OF SOURCES OF INCOME

§ 1.861-1 Income from sources within the United States.

(a) Categories of income. Part I (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder determine the sources of income for purposes of the income tax. These sections explicitly allocate certain important sources of income to the United States or to areas outside the United States, as the case may be; and, with respect to the remaining income (particularly that derived partly from sources within and partly from sources without the United States), authorize the Secretary or his delegate to determine the income derived from sources within the United States, either by rules of separate allocation or by processes or formulas of general apportionment. The statute provides for the following three categories of income:

(1) *Within the United States.* The gross income from sources within the United States, consisting of the *items of gross income* specified in section 861(a) plus the items of gross income allocated or apportioned to such sources in accordance with section 863(a). See §§ 1.861-2 to 1.861-7, inclusive, and § 1.863-1. The taxable income from sources within the United States, in the case of such income, shall be determined by deducting therefrom, in accordance with sections 861(b) and 863(a), the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any other expenses, losses, or deductions which cannot definitely [...] (emphasis added)

But what about the items of *gross income* from section 61? Let's look at § 1.861-8(a)(3):

(3) *Class of gross income.* For purposes of this section, the gross income to which a specific deduction is definitely related is referred to as a 'class of gross income' and may consist of one or more items (or subdivisions of these items) of *gross income enumerated in section 61*, namely: [...]

Then it goes on to talk about residual groupings and statutory groupings, please see the Taxable Income report to help work your way through that. The last part of the regulations to add here under section 861, is § 1.861-8T (d)(2)(iii):

(iii) *Income that is not considered tax exempt.* The following items are not considered to be exempt, eliminated, or excluded income and, thus, may have expenses, losses, or other deductions allocated and apportioned to them:

(A) In the case of a *foreign taxpayer* (including a foreign sales corporation (FSC)) [...]

(B) In computing the combined taxable income of a *DISC or FSC* and its related supplier, the gross income of a DISC or a FSC;

Note: DISC and FSC are both related to foreign trade, please see the mention of FSC income in an article about the WTO and U.S. tax policy to follow later.

(C) For all purposes under subchapter N of the Code, including the computation of combined taxable income of a *possessions corporation* and its affiliates [...]

(D) *Foreign earned income* as defined in section 911 and the regulations thereunder (however, the rules of § 1.911-6 do not require the allocation and apportionment of certain deductions, including home mortgage interest, to foreign earned income for purposes of determining the deductions disallowed under section 911(d)(6)).

That's it! I'm sure anyone who's looked very closely at an instruction book for the IRS form 1040 and its variations, has seen the chart under 'Filing Requirements', where it lists filing status, and if you have 'gross income' of at least a certain amount, you have to file. And in that box, it says "**Gross income** means all income you received in the form of money, goods, property, and services that is *not exempt* from tax including any income from sources outside the United States. [...]".

You probably didn't know that 26 CFR 1.861-8T (d)(2)(iii) gave you the list of sources of income that is *not exempt*, did you? Well, neither did I. Even when I did read about it, it took me a while to really believe it. I had to read a lot of IRS publications, various regulations, etc. and then I came upon the information linking it all to tariff acts and trade agreements. That's next.

3. Tariff Acts and the Income Tax

After I discovered the information about the '861/source' issue, I really didn't want to take it any further. I wanted to just sit on the sidelines and let others fight the good fight. I believed it had merit, but I was afraid. I was used to cooperating with those in government, not asking them tough questions or doing things outside the 'mainstream'. And I figured the IRS (Internal Revenue Service) could still make my life miserable or send me to jail or something awful. Three simple, innocent letters that strike terror in the heart of most Americans: IRS.

But this thing wouldn't let go of me, so I gave in. I decided there must be something out there that would help it all make sense. I'm not sure where I'd read it before, but I read somewhere that the current income tax was part of the Tariff Act of 1913, after the 16th amendment was passed. Technically called the Underwood Simmons Tariff Act.

Once I read about this tariff act, something clicked into place. I'd worked for 15+ years in the transportation field, dealing with international trade. So I was indirectly involved with knowing when different trade acts or agreements changed rules dealing with U.S. Customs and other international transportation related things.

Essentially, a tariff is a set of rates that are charged for various services. When you call an airline to find out how much it will cost to fly somewhere, that rate is a part of their tariff. When it comes to the U.S. Government, their tariff applies (mostly) to U.S. Customs import duties. It's what will be charged, if anything, when you import something into the country. It deals strictly with international / foreign trade. From the Constitution, Article 1:

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; ... (clause 1)

To regulate commerce with foreign nations, and among the several states

I'm not real clear on what an impost is, but it's not important right now. Excises are things like the gasoline tax. For both duties and excises, we do ultimately pay those taxes but for most of us it's indirect. We don't have to be bonded or any of that because we're not dealing directly with the public money.

To continue with the history, I found the following on the IRS web site:

Historical Highlights of the IRS ⁶ (selected portions)

1894 - The Wilson Tariff Act revived the income tax and an income tax division within the Bureau of Internal Revenue was created.

1895 - Supreme Court ruled the new income tax unconstitutional on the grounds that it was a direct tax and not apportioned among the states on the basis of population. The income tax division was disbanded.

1909 - President Taft recommended Congress propose a constitutional amendment that would give the government the power to tax incomes without apportioning the burden among the states in line with population. Congress also levied a 1 percent tax on net corporate incomes of more than \$5,000.

1913 - As the threat of war loomed, Wyoming became the 36th and last state needed to ratify the 16th Amendment. The amendment stated, "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." Later, Congress adopted a 1 percent tax on net personal income of more than \$3,000 with a surtax of 6 percent on incomes of more than \$500,000. *It also repealed the 1909 corporate income tax.* The first Form 1040 was introduced. [...]

1942 - The Revenue Act of 1942, hailed by President Roosevelt as "the greatest tax bill in American history," passed Congress. It increased taxes and the number of Americans subject to the income tax. It also created deductions for medical and investment expenses.

1943 - Congress adopted the Current Tax Payment Act, which required employers to withhold taxes from employees' wages and remit them quarterly.

1986 -President Reagan signed the Tax Reform Act, the most significant piece of tax legislation in 30 years. It contained 300 provisions and took three years to implement. The act codified the federal tax laws for the third time since the Revenue Act of 1918.

I'll start with the IRS history which says that Congress repealed the 1909 corporate income tax (Payne Aldrich Tariff Act). The date of the Payne Aldrich Tariff Act was Aug. 5, 1909.

Prior to finding the IRS' version of history, I 'd already discovered that the Payne Aldrich Tariff Act had not been repealed. I have three different places that tell me that's not the case, the first one is a copy of the Revenue Act of 1921⁷, Sec. 252, under the heading Refunds. It says in part: "That if, upon examination of any return of income made pursuant to this Act, the Act of Aug. 5, 1909 ... it appears that an amount of income, war-profits or excess-profits tax has been paid in excess of that properly due..."

Then in the 1939 IRC, there are some tables, I looked first at Table A – Derivation of Internal Revenue Code (pg. 514 of reprint by Prentice-Hall) and it shows that IRC section 2000 (a), 2000(b) and 2002 (a)(2) as well as others having to do with tobacco, were from Date 1909, Aug. 5. Then in Table B. –Statutes included in the Internal Revenue Code, II. Statutes at Large, under 1909, Aug. 5, we see it lists I.R.C. sections: 2000 (a)-(c)(1); 2002(a)(2); 2102, 2100(d); 2110; 2111(c)., all having to do with tobacco. Lastly, in Table C. – Internal revenue statutes expressly repealed, II. Statutes at Large *repealed in part, it shows 1909, Aug. 5 and we see Chapter 6, section 37, 38, 41 and 42 repealed by act of 1913, Oct. 3.

The third place I found information pertaining to this was in Title 19⁸ – Customs Duties. Under Sec. 1401. Miscellaneous [...]PRIOR PROVISIONS [...]

Section III of the Underwood Tariff Act of Oct. 3, 1913, ch. 16, 38 Stat. 181, amending the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, was repealed by section 643 of the act of Sept. 21, 1922, ch. 356, title IV, 42 Stat. 989.

Section III, by subdivision A thereof, amended the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, as previously amended, to read as set forth in section III, subdivisions B-CC. By that amendment and reenactment, the Customs Administrative Act of June 10, 1890, and the amendments thereof by act July 24, 1897, ch. 11, Sec. 32, 30 Stat. 211, act May 17, 1898, ch. 341, 30 Stat. 417, Act Dec. 15, 1902, ch. 1, 32 Stat. 753, act May 27, 1908, ch. 205, 35 Stat. 403, and the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, Sec. 28, 36 Stat. 91, were superseded, except the provisions thereof mentioned in a proviso of section IV,S, of that act. The Customs Administrative Act of June 10, 1890, as originally enacted

and as amended previous to the Payne-Aldrich Tariff Act, consisted of thirty sections, of which section 30 prescribed the time when the act should go into effect. Of the preceding twenty-nine sections of the original act, section 15 providing for review by the courts of decisions of the Board of General Appraisers, was omitted from the act as further amended by the Payne-Aldrich Tariff Act, and the remaining twenty-eight sections were amended thereby, constituting sections 1-28 thereof. A new section, designated as section 29, was added by the Payne-Aldrich Tariff Act, which created a Court of Customs Appeals and prescribed its jurisdiction and powers, proceedings, etc. Its provisions were incorporated in and superseded by chapter 8 of the Judicial Code of March 3, 1911. Another new section, designated as section 30, was also added by the Payne-Aldrich Tariff Act, which provided for the appointment of an Assistant Attorney-General, a Deputy Assistant Attorney-General, and attorneys, in charge of matters of reappraisalment, etc., of imported goods and litigation incident thereto. Section 30 was incorporated into the Code as section 296 of former Title 5, Executive Departments and Government Officers and Employees, and subsequently repealed by Pub. L. 89-554, Sept. 6, 1966, Sec. 8(a), 80 Stat. 632.

Basically what all of this tells us is that the 1909 Corporate income tax was only partly repealed and/or amended. It probably couldn't be completely repealed, because it had its roots in previous acts. That's just a guess, however. That is important because the current income tax, at least in part, had its roots in statutes enacted prior to the passage of the 16th amendment.

And, there was a Supreme Court case that gives us a better idea as to what or where the 1909 corporate income tax applied, with implications on the individual income tax, which was implemented just a couple of years after this 1911 decision. Below are selected portions from *Flint v. Stone Tracy Co.*, 220 U.S. 107⁹

These cases involve the constitutional validity of the act of Congress approved August 5, 1909, known as 'the corporation tax' law. [...]

It is contended in the first place that this section of the act is unconstitutional, because it is a revenue measure, and originated in the Senate in violation of 7 of article 1 of the Constitution, providing that 'all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with the amendments, as on other bills.' The history of the act [220 U.S. 107, 143] is contained in the government's brief, and is accepted as correct, no objection being made to its accuracy.

This statement shows that the tariff bill of which the section under consideration is a part, originated in the House of Representatives, and was there a general bill for the collection of revenue. [...]

While the mere declaration contained in a statute that it shall be regarded as a tax of a particular character does not make it such if it is apparent that it cannot be so designated consistently with the meaning and effect of the act, nevertheless the declaration of the lawmaking power is entitled to much weight, and in this statute the intention is expressly declared to impose a special excise tax with respect to the carrying on or doing business by such corporation, joint stock company or association, or company. It is therefore apparent, giving all the words of the statute effect, that the tax is imposed not upon the franchises of the corporation, irrespective of their use in business, nor upon the property of the corporation, but upon the doing of corporate or insurance business, and with respect to the carrying on thereof, ... when imposed in this manner it is a tax upon the doing of business, with the advantages which inhere in the peculiarities of corporate or joint stock organization of the character described. [...]

This view of the measure of the tax is strengthened when we note that as to organizations under the laws of foreign countries, the amount of net income over and above \$5,000 includes that received from business transacted and capital invested in the United States, the territories, Alaska, and the District of Columbia. [...] (*note: Alaska was a possession and not one of the several states in 1911.*)

Within the category of indirect taxation, as we shall have further occasion to show, is embraced a tax upon business done in a corporate capacity, which is the subject-matter of the tax imposed in the act under consideration. The Pollock Case construed the tax there levied as direct, because it was imposed upon property simply because of its ownership. In the present case the tax is not payable unless there be a carrying on or doing of business in the designated capacity, and this is made the occasion for the tax, measured by the standard prescribed. The difference between the acts is not merely nominal, but rests upon substantial differences between the mere ownership of property and the actual doing of business in a certain way. [...]

If business is not done in the manner described in the statute, no tax is payable. Nor is that line of cases applicable, such as *Brown v. Maryland*, 12 Wheat. 419, 6 L. ed. 678, holding that a tax on the sales of an importer is a tax on the import, and *Cook v. Pennsylvania*, 97 U.S. 566, 24 L. ed. 1015, holding a tax on auctioneers' sales of goods in original packages *a tax on imports*. In these cases the tax was held invalid, as the state thereby taxed *subjects of taxation within the exclusive power of Congress*. (emphasis added).

This argument has not been infrequently addressed to this court with respect to the exercise of the powers of Congress. Of such contention this court said in *Knowlton v. Moore*, 178 U.S. 60, 44 L. ed. 977, 20 Sup. Ct. Rep. 755:

'This principle is pertinent only when there is no power to tax a particular subject, and has no relation to a case where such right exists. In other words, the power to destroy, which may be the consequence of taxation, is a reason why the right to tax should be confined to subjects which may be lawfully embraced therein, [...]'

It has been suggested that there is a lack of power to tax foreign corporations, doing local business in a state, in the manner proposed in this act, and that the tax upon such corporations, being unconstitutional, works such inequality against domestic corporations as to invalidate the law. It is sufficient to say to this that no such case is presented in the record. *Southern R. Co. v. King*, 217 U.S. 525, 54 L. ed. 868, 30 Sup. Ct. Rep. 594. This is equally true as to the alleged invalidity of the act as a tax on exports, which is beyond the power of Congress. No such case is presented in those now before the court. (end citation.)

What if, prior to the passage of the 16th amendment – Congress couldn't tax the incomes of individuals who were engaged in foreign commerce, although they were receiving the benefit of doing business in or with the United States, and Congress' ability to enter into treaties or agreements regulating foreign commerce is where they received that benefit? Examples of such individuals are Bono of (formerly of?) U-2, or Paul McCartney. What if THAT is what the Supreme Court meant when they said that the 16th amendment was an excise related to certain government granted privileges? In fact, looking at the above quoted from *Flint v. Stone Tracy Co.*, it looks to me like that's exactly what they were saying.

And since it was a Tariff Act in 1894 that revived the income tax, as was the 1913 Underwood Tariff Act that enacted the 'modern' income tax, I thought it would be interesting to bring in a bit of history of the U.S. Customs¹⁰ service that I found on their old web site. These are selected portions from the article.

Protectors of Independence

The story of the United States Customs Service is the story of America itself.

Founded in 1789 to save the struggling new Nation from financial collapse, Customs has come to the aid and protection of the Republic for over two centuries. Customs gave America its first source of revenue, became its first Federal law enforcement agency, and has effected and been affected by the Nation's history from the earliest days to the present.

No less a guiding light than James Madison of Virginia proposed the plan that would eventually make this nation solvent: impose a duty on imports and create a well-managed agency to ensure its due collection. Responding to an urgent need for revenue, *the first Congress passed, and President Washington signed, the Tariff Act of July 4, 1789. It established a tariff and a system for collecting duties.* (emphasis added).

The Act was considered so important that the press of the day hailed it as a "second Declaration of Independence." *Customs districts, ports of entry, and the machinery for appointing Customs officers and prescribing their duties were established July 31, 1789 -- one day before the Tariff Act took effect. President Washington then nominated 59 Collectors of Customs and more than 40 other officers to staff the new Customs Service.* (emphasis added).

The entire Service was placed, as it is today, under the Treasury Department, headed by 32-year-old Alexander Hamilton. Hamilton's tireless, dedicated commitment to the new Service set an early standard for Customs officials.

What all of these acts have in common is that they are tariff acts, dealing specifically with foreign trade and commerce, and Customs duties.

I also want to add part of a press release which will tie in to tariffs, duties and trade agreements. It also helps move us to the more recent past, as well as trade agreements, which will be discussed in the next chapter.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE UNITED STATES DEPARTMENT OF COMMERCE

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November 26, 2002

U.S. Proposes Tariff-Free World, WTO Proposal Would Eliminate Tariffs on Industrial and Consumer Goods by 2015

Duty-Free Trade Would Help Consumers, Producers, Poor

WASHINGTON - The United States announced today an ambitious new proposal calling on members of the World Trade Organization (WTO) to eliminate all tariffs on consumer and industrial goods by 2015. Demonstrating continued U.S. leadership in the Doha Development Agenda, the U.S. plan for zero tariffs is comprehensive, and would benefit both developed and developing nations.

This proposal, combined with the far-reaching U.S. agricultural reform proposal submitted to the WTO in July, would eliminate tariffs on the nearly \$6 trillion in annual world goods trade, lifting the economic fortunes of workers, families, businesses, and consumers. These two proposals call on all WTO members to advance free trade and complete the tariff-cutting work that began more than 50 years ago with the creation of the General Agreement on Tariffs and Trade in 1948.[...]

The elimination of U.S. tariffs would significantly benefit U.S. families and consumers through lower import taxes and a more competitive economy. Last year alone, hidden import taxes cost American consumers \$18 billion. Duty-free trade would eliminate these hidden costs and lower prices for

consumers. While this proposal would offer substantial benefits to all Americans, it would particularly help low-income families. A recent study by the Progressive Policy Institute found that cutting U.S. import taxes especially benefits single-parent, low-income families, who typically pay a higher proportion of their income on import taxes than other households. A University of Michigan study found that the U.S. economy would expand by \$95 billion as a result of tariff-free trade - contributing to job-creation and higher wages. (emphasis added)

4. That was then, this is now.

While researching the Underwood Tariff Act of 1913, I found some information that led me to connect the enactment of trade acts and agreements with the Internal Revenue Code. In the online version of the Government Executive Magazine¹¹, I saw an article that noted that from 1935 until the Uruguay Round was enacted, the Agriculture Department had primary responsibility for monitoring trade agreements. Apparently they still do that for agricultural products. During the course of my general income tax research, I'd seen, at least a couple of times, that IRS employee's paychecks are not issued by the Treasury Department, but by Agriculture. I don't have any first-hand knowledge of that, so I'll just call it a rumor for now. However, it makes the exploration of the link between the income tax and trade agreements and foreign commerce much more plausible.

Trade agreements

I'm sure most people have heard of the World Trade Organization (WTO), or NAFTA (the North American Free Trade agreement). Those agreements fall under the ability of Congress and/or the executive branch of government to regulate commerce, enter into treaties, or trade agreements. Some people think that while the original income tax may have been based on foreign commerce, it has since changed into something different. What I've found strongly suggests that it hasn't changed at all. Somewhere along the line we were misled, whether intentionally or not may be revealed in the fullness of time. I do believe that most IRS and other government officials currently do believe what we've all been told, and have no idea about the limited nature of the U.S. income tax, or why it is limited. Some people surely know, which is why, in my opinion, the 'flat tax' idea has never gone anywhere. Once enough people and politicians figure it out, that will go a long way towards 'simplifying' the Code, since they won't have to make it so tough to figure out who or what it applies to.

What follows is the evidence that ties changes in the tax code to laws that were passed while enacting various trade agreements or trade acts. It covers some of almost all of the subtitles, not just Subtitle A – income tax. It could be passed off as coincidence if it were just a couple of sections here and there, once or twice. But it's far more than that, as we'll see.

First, you may be asking, just what is a trade agreement? It is essentially an agreement between 2 or more countries on what rules they will follow in order to do business with each other, and what rules they'll follow if they disagree with each other, whether or not they'll impose sanctions and what those sanctions might be, etc. There is also something called a treaty, and I believe; though I'm not positive, that a treaty is what's called a bilateral (2-party) agreement, and when it's multiple parties, such as with GATT and WTO, it's called a multilateral agreement. I haven't really done any research on the difference between a treaty and an agreement, but I don't think there are large differences between the two.

There are several major trade agreements that the U.S. has become a party to over time. The biggest one was the GATT agreement, in 1947. (GATT means Generalized Agreements on Tariffs and Trade.) That was the first trade agreement that the U.S. entered into which included more than 1 other party. Prior to that, all agreements or treaties were bilateral; i.e. 2 parties. The GATT agreement is considered, appropriately enough, a multilateral agreement. Whenever the various parties to the GATT agreement got together for a new round of negotiations, after the talks were concluded the new agreement takes on the name of whichever city of the world where they began their discussions. Since a 'round' of discussions can go on over a period of

years, the ultimate agreement may be signed somewhere completely different than where the talks began. And if you see or hear about 'the Tokyo round' or 'the Uruguay round', it's an amendment to the original GATT agreement.

In fact the U.S. entry into the WTO (World Trade Organization) was part of the Uruguay Round, and the enacting legislation in the U.S. was called the Uruguay Round Agreements Act (URAA). I don't have a copy of that act, since it was approved in 1994 and I haven't been able to find it online, but I've seen reference to it in other subsequent acts.

Let's look at a part of the original GATT agreement, below:

THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1947)¹²

The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the French Republic, India, Lebanon, the Grand-Duchy of Luxemburg, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, Southern Rhodesia, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods, Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows:

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of [Article III](#), any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties. [...]

Article II

Schedules of Concessions

2. Nothing in this Article shall prevent any contracting party from imposing at any time on the importation of any product:

(a) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of [Article III](#) in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(b) any anti-dumping or countervailing duty applied consistently with the provisions of [Article VI](#); [...]

Article III

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax. [...]

Though the WTO agreement has different members, that's due to amendments to the original agreement above. Only a small portion of the original GATT agreement is shown above.

Now I'll include a short chronology from the U.S. Department of State, leading to the U.S. entry into the WTO.¹³

1986-1994 -- The eight [sic] GATT round, the Uruguay Round, was launched at a ministerial meeting in Punta del Este, Uruguay, with more than 125 countries participating. The negotiating agenda included opening markets in agriculture and services, restricting subsidies, and protecting intellectual property.

1990 -- Stalled by U.S.-European disagreement over agriculture, Uruguay Round negotiations broke down at a Brussels ministerial meeting that was supposed to conclude them. Negotiations resumed the following year.

April 1994 -- The Uruguay Round ended with 111 countries signing an agreement in Marrakesh, Morocco, to establish the World Trade Organization (WTO) as a more-robust successor to the GATT. The round achieved more tariff cuts on industrialized goods and strengthened disciplines on nontariff barriers. Members agreed to phase out import restrictions on textiles and clothing. The round achieved modest market opening measures in agriculture and services and protection for intellectual property. Most importantly, it established a system of panels to resolve disputes between WTO members and rules for enforcing panel decisions.

January 1995 -- The WTO, an intergovernmental organization with a firmer legal foundation than its predecessor, began operations. Governing the WTO are a number of legal texts, most notably the General Agreement on Tariffs and Trade, the General Agreement on Trade in Services, and the agreement on Trade-Related Aspects of Intellectual Property Rights.

And also, below is information taken from Title 19, Customs Duties.

Sec. 2702 Beneficiary Country

...
1994 - Subsec. (c)(4). Pub. L. 103-465 substituted "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 3501 of this title)" for "General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2503(a) of this title".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

I also found the information below which helps show the link between trade agreements and income tax:

U.S. Will Appeal WTO Ruling on Corporate Tax Law ¹⁴

The Office of the United States Trade Representative has announced that it will appeal a World Trade Organization (WTO) ruling on a U.S. tax provision allowing U.S. companies to exclude their foreign source income from taxation.

"There is a lot at stake and the United States will vigorously defend its interests," said U.S. Trade Representative Robert Zoellick in an October 10 (2001) press release.

A WTO dispute settlement panel found in August 2001 that the U.S. tax stipulation violated WTO agreements. The European Union (EU) had challenged the Foreign Sales Corporation Repeal and Extraterritorial Income Exclusion Act of 2000 (ETI Act) claiming that it constitutes an unfair subsidy to U.S. corporations.

The United States has decided to appeal the WTO panel's ruling on the grounds that the ETI Act complies with WTO rules and is similar to European tax laws.

Zoellick said that the decision to appeal had strong support of Congress and the business community.

The appeal is expected to take between 60 and 90 days. If the WTO Appellate Body decides to reverse the panel's ruling, the dispute will end. If, however, the Appellate Body confirms the findings, the United States and the European Union will engage in arbitration to determine possible countermeasures by the EU.

Speaking to reporters one day earlier, Alan Larson, the State Department under secretary for economic, business and agricultural affairs, said it was very important for Europe and the United States to manage this particular dispute in a way that does not damage the international trading system.

Following is the text of the USTR press release:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
October 10, 2001

United States to Appeal WTO Ruling on FSC/ETI Tax Law

WASHINGTON - The United States Trade Representative today announced that the United States will appeal a World Trade Organization ruling on a provision of U.S. tax law that allows U.S. companies to exclude their foreign source income from tax.

The European Union challenged the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 ("ETI Act") – which replaced the Foreign Sales Corporation ("FSC") provisions of U.S. tax law - as an unfair subsidy to U.S. corporations.

The United States argued that the ETI Act was WTO-compliant and similar to European tax laws.

"The FSC/ETI issue is a sensitive one involving complex tax policy questions and the interests of many international companies. As I cautioned in May during a visit to Europe, there is a lot at stake and the United States will vigorously defend its interests," said United States Trade Representative Robert B. Zoellick.

"The prior Administration worked closely with the Congress to fashion the ETI remedy; this Administration consulted closely with the Congress in considering the appropriate approach. Many members of Congress and the business community expressed their strong preference that the United States should appeal the FSC decision," Zoellick said.

"We have decided to appeal because we believe the decision was in error. The United States stands by its WTO obligations, which serve America's interests.

We have discussed our concerns with the EU, with which we'll continue to seek to cooperate to manage, and, ultimately, resolve this dispute," said Zoellick.

Background:

In March 2000, the World Trade Organization (WTO) ruled against the FSC provisions of U.S. tax law. Last November, Congress passed the ETI Act to comply with the WTO ruling, but the European Union (EU) challenged the new law.

On August 20, 2001, a WTO dispute settlement panel found that the ETI Act violates U.S. WTO obligations. This second adverse ruling is what the United States today announced it would appeal.

The ETI Act provides an exclusion from tax for foreign-source income. The Act was intended to replicate, within the parameters of the U.S. tax system, the tax treatment afforded this type of income under European tax systems.

The appeal, which is provided for in a September 2000 procedural agreement between the United States and the EU, is expected to take between 60-90 days. If the WTO Appellate Body should reverse the panel's findings that the ETI Act is WTO-inconsistent, that will be the end of the dispute. On the other hand, if the Appellate Body should affirm the panel's findings, there would then be an arbitration to determine the amount of countermeasures, if any, to which the EU is entitled.

Testing the theory

In order to test whether there is in fact a current link between current or recent Title 26 updates or amendments, and trade acts or agreements, I needed to find the public law numbers and names for some of these acts. Below is a sample of what a statute, etc. looks like:

Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter A - Determination of Tax Liability
PART IV - CREDITS AGAINST TAX
Subpart B - Other Credits

-HEAD-

Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit

-STATUTE-

(a) Foreign tax credit

The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

(b) Section 936 credit

In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 13, Sec. 33; *Pub. L. 94-455*, title X, Sec. 1051(a), Oct. 4, 1976, 90 Stat. 1643; renumbered Sec. 27, *Pub. L. 98-369*, div. A, title IV, Sec. 471(c), July 18, 1984, 98 Stat. 826.)

-MISC1-

AMENDMENTS

1984 - *Pub. L. 98-369*, Sec. 471(c), renumbered section 33 of this title as this section.

1976 - *Pub. L. 94-455* designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1051(i) of *Pub. L. 94-455*, as amended by *Pub. L. 99-514*, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) Except as provided by paragraph (2), the amendments made by this section (enacting section 936 of this title and amending sections 33 (now 27), 48, 116, 243, 246, 861, 901, 904, 931, 1504, and 6091 of this title) shall apply to taxable years beginning after December 31, 1975, except that 'qualified possession source investment income' as defined in section 936(d)(2) of the Internal Revenue Code of 1986 (formerly I.R.C. 1954) shall include income from any source outside the United States if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was earned before October 1, 1976.

''(2) The amendment made by subsection (d)(2) (amending section 901 of this title) shall not apply to any tax imposed by a possession of the United States with respect to the complete liquidation occurring before January 1, 1979, of a corporation to the extent that such tax is attributable to earnings and profits accumulated by such corporation during periods ending before January 1, 1976.''

I chose the one above because it's relatively short. As you can see, it mostly just lists the Pub. L. number and a date. I realized that in order to find out whether different Acts pertaining to foreign commerce had been used to amend portions of the Internal Revenue Code, and which portions, etc. had been updated and when, I'd need the Pub. L. number. I did some keyword searches on some government websites, and I found a large portion of them in Title 19, under the 'short title' notes for various acts. After I'd assembled the list of Pub. L. numbers, I began a search in the Title_26.doc file (yes, all 7628 pages), and when it made a 'find', I'd copy & paste that to a new document. The resulting document is 143 pages. I then condensed it into a spreadsheet and sorted it into the table shown later, listed by subtitle.

The current version of Title 26 only has, for the most part, statutes or Public Laws since 1954 shown, with occasional references to the 1939 IRC. I was only looking for acts or agreements enacted after 1954, and it turns out there were a lot of changes to the tax code under these acts, some more than others. The 2 largest are: 1.) The Foreign Taxpayer's Act of 1966 – wherein the Netherlands Antilles Treaty was enacted; and 2.) The Uruguay Round Agreements Act, discussed above as implementing the U.S. entry into the WTO.

Below is a list of the various public laws that I found which had updates to the tax code, including the date of enactment. They span a 41-year time period, from 1961 to 2002.

Pub.L.#	Date of enactment	Name of Act
87-195	Sept. 4, 1961	Foreign Assistance Act of 1961
87-794	Oct. 11, 1962	Trade Expansion Act of 1962 (<i>GATT/ Kennedy Round</i>)
89-809	Nov. 13, 1966	Foreign Investor's Tax Act of 1966 <i>enacted Netherlands Antilles Treaty</i>
93-618	Jan. 3, 1975	Trade Act of 1974
95-615	Nov. 8, 1978	Foreign Earned Income Act of 1978
96-39	Jul. 26, 1979	Trade Agreements Act of 1979 <i>(GATT/Tokyo Round)</i>
98-67	Aug. 5, 1983	Caribbean Basin Economic Recovery Act
98-476	Oct. 12, 1984	Trade and Tariff Act of 1984
100-418	Aug. 23, 1988	Omnibus Trade and Competitiveness Act (OTCA)
102-182	Dec. 4, 1991	Andean Trade Preference
103-182	Dec. 8, 1993	NAFTA/ North American Free Trade
103-465	Dec. 8, 1994	Uruguay Round Agreements Act (URAA) / WTO <i>entry into World Trade Organization;GATT/ Uruguay Round)</i>
106-200	May 18, 2000	Trade and Development Act of 2000
107-210	Aug. 6, 2002	Trade Act of 2002

Now for the tables that link several of these trade acts to amendments or additions to Title 26 – Internal Revenue, listed by subtitle. They show which section of the Code was amended, the description of the section, sometimes abbreviated, and the public law number, with name of the act. I've listed them by subtitle and then in order of section, with the earliest dates first.

Subtitle A – Income taxes

Sect.	Section title	Pub. L.#	Name of Act
1	Tax imposed	89-809	Foreign Investors Tax Act of 1966
1	Tax imposed	95-615	Foreign Earned Income Act of 1978
1	Tax imposed	96-39	Trade Agreements Act of 1979
1	Tax imposed	98-67	Caribbean Basin Econ.Recovery
1	Tax imposed	103-465	Uruguay Round Agreements Act
11	Tax imposed	89-809	Foreign Investors Tax Act of 1966
21	Expenses for...	98-67	Caribbean Basin Econ.Recovery
31	Tax withheld on wages	98-67	Caribbean Basin Econ.Recovery
32	earned income	95-615	Foreign Earned Income Act of 1978
32	earned income	103-465	Uruguay Round Agreements Act
35	Overpayments of tax	107-210	Trade Act of 2002
48	Energy Credit	89-809	Foreign Investors Tax Act of 1966
61	Gross income defined	95-615	Foreign Earned Income Act of 1978
62	Adjusted gross income defined	95-615	Foreign Earned Income Act of 1978
117	Qualified scholarships	95-615	Foreign Earned Income Act of 1978
119	Meals .. Of the employer	95-615	Foreign Earned Income Act of 1978
153	Cross references	89-809	Foreign Investors Tax Act of 1966
164	Taxes	100-418	Omnibus Trade (OTCA)
167	Depreciation	95-615	Foreign Earned Income Act of 1978
172	Net operating loss deduction	87-794	Trade Expansion Act of 1962
193	Tertiary injectants	100-418	Omnibus Trade (OTCA)
245	Dividends...	89-809	Foreign Investors Tax Act of 1966
274	Disallowance of certain expenses	98-67	Caribbean Basin Econ.Recovery
275	Certain taxes	98-67	Caribbean Basin Econ.Recovery
291	Special rules..corporate items	100-418	Omnibus Trade (OTCA)
301	Distribution of property	89-809	Foreign Investors Tax Act of 1966
334	Basis of property...	89-809	Foreign Investors Tax Act of 1966
351	Transfer to corporation...	89-809	Foreign Investors Tax Act of 1966
401	Qualified pension... plans	89-809	Foreign Investors Tax Act of 1966
401	Qualified pension... plans	103-465	Uruguay Round Agreements Act
402	Taxability of ..trust	103-465	Uruguay Round Agreements Act
404	Deduction for ...plan	103-465	Uruguay Round Agreements Act

408	Individual retirement accounts	103-465	Uruguay Round Agreements Act
411	Minimum vesting standards	103-465	Uruguay Round Agreements Act
412	Minimum funding standards	103-465	Uruguay Round Agreements Act
415	Limitations on ...plans	103-465	Uruguay Round Agreements Act
420	Transfers to ...accounts	103-465	Uruguay Round Agreements Act
453	Installment method	89-809	Foreign Investors Tax Act of 1966
512	Unrelated business taxable...	89-809	Foreign Investors Tax Act of 1966
542	Definition of personal hold....	89-809	Foreign Investors Tax Act of 1966
543	Personal holding co...	89-809	Foreign Investors Tax Act of 1966
545	Undistributed ...income	89-809	Foreign Investors Tax Act of 1966
613	Percentage depletion	89-809	Foreign Investors Tax Act of 1966
643	Definitions applicable...	98-67	Caribbean Basin Econ.Recovery
661	Deduction for estates	98-67	Caribbean Basin Econ.Recovery
731	Recognition of gain or loss	103-465	Uruguay Round Agreements Act
737	Recognition ... partners	103-465	Uruguay Round Agreements Act
818	Other definitions..rules	89-809	Foreign Investors Tax Act of 1966
832	Insurance company ...	89-809	Foreign Investors Tax Act of 1966
834	Determination of taxable ...	89-809	Foreign Investors Tax Act of 1966
841	Credit for foreign taxes	89-809	Foreign Investors Tax Act of 1966
842	Foreign companies...	89-809	Foreign Investors Tax Act of 1966
861	Income from sources w/in U.S.	89-809	Foreign Investors Tax Act of 1966
864	Definitions and special rules	89-809	Foreign Investors Tax Act of 1966
871	Tax on nonresident alien indiv.	89-809	Foreign Investors Tax Act of 1966
871	Tax on nonresident alien indiv.	103-465	Uruguay Round Agreements Act
872	Gross income	89-809	Foreign Investors Tax Act of 1966
873	Deductions	89-809	Foreign Investors Tax Act of 1966
874	Allowance of deductions...	89-809	Foreign Investors Tax Act of 1966
875	Partnerships, ...estates and trusts	89-809	Foreign Investors Tax Act of 1966
877	Expatriation to avoid tax	89-809	Foreign Investors Tax Act of 1966
878	Foreign educational ...	89-809	Foreign Investors Tax Act of 1966
881	Tax on income of foreign corp...	89-809	Foreign Investors Tax Act of 1966
882	Tax on income of foreign corp...	89-809	Foreign Investors Tax Act of 1966
885	Cross references	89-809	Foreign Investors Tax Act of 1966
894	Income affected by treaty	89-809	Foreign Investors Tax Act of 1966
896	Adjustment of tax on...	89-809	Foreign Investors Tax Act of 1966
901	Taxes of foreign countries...	89-809	Foreign Investors Tax Act of 1966

901	Taxes of foreign countries...	106-200	Trade and Development Act of 2000
904	Limitation on credit	89-809	Foreign Investors Tax Act of 1966
906	Nonresident alien...foreign corp.	89-809	Foreign Investors Tax Act of 1966
911	Citizens or residents ... living abroad	89-809	Foreign Investors Tax Act of 1966
911	Citizens or residents ... living abroad	95-615	Foreign Earned Income Act of 1978
913	repealed in 1981	95-615	Foreign Earned Income Act of 1978
931	Income from sources w/in Guam...	89-809	Foreign Investors Tax Act of 1966
936	Puerto Rico ..tax credit	98-67	Caribbean Basin Econ.Recovery
952	Subpart F income defined	89-809	Foreign Investors Tax Act of 1966
953	Insurance income	89-809	Foreign Investors Tax Act of 1966
981	repealed Oct. 4, 1976	89-809	Foreign Investors Tax Act of 1966
993	Definitions	96-39	Trade Agreements Act of 1979
1234	Options to buy or sell	89-809	Foreign Investors Tax Act of 1966
1248	Gain from certain sales...	89-809	Foreign Investors Tax Act of 1966
1249	Gain from certain sales...	89-809	Foreign Investors Tax Act of 1966
1301	Averaging of farm income	95-615	Foreign Earned Income Act of 1978
1382	Taxable income of cooperatives	89-809	Foreign Investors Tax Act of 1966
1383	Computation of tax...	89-809	Foreign Investors Tax Act of 1966
1385	Amounts includible...	89-809	Foreign Investors Tax Act of 1966
1388	Definitions; special rules	89-809	Foreign Investors Tax Act of 1966
1402	Definitions	95-615	Foreign Earned Income Act of 1978
1441	Withholding of tax on nonresident aliens.	89-809 87-195	Foreign Investors Tax Act of 1966 Foreign Assistance Act of 1961
1442	Withholding of tax on foreign corps.	89-809	Foreign Investors Tax Act of 1966
1461	Liability for withheld tax	89-809	Foreign Investors Tax Act of 1966
1493	repealed with this act	89-809	Foreign Investors Tax Act of 1966

Subtitle B – Estate and Gift taxes

Sect.	Section title	Pub. L.#	Name of Act
2014	Credit for foreign death taxes	89-809	Foreign Investors Tax Act of 1966
2101	Tax imposed	89-809	Foreign Investors Tax Act of 1966
2102	Credits Against Tax	89-809	Foreign Investors Tax Act of 1966
2104	Property within the U.S.	89-809	Foreign Investors Tax Act of 1966
2105	Property without the U.S.	89-809	Foreign Investors Tax Act of 1966
2106	Taxable estate	89-809	Foreign Investors Tax Act of 1966
2107	Expatriation to avoid tax	89-809	Foreign Investors Tax Act of 1966
2108	Application of pre-1967...	89-809	Foreign Investors Tax Act of 1966
2501	Imposition of tax	89-809	Foreign Investors Tax Act of 1966
2511	Transfers in general	89-809	Foreign Investors Tax Act of 1966

Subtitle C – Employment taxes

Sect.	Section title	Pub. L.#	Name of Act
3302	Credits Against Tax	93-618	Trade Act of 1974
3304	Approval of State laws	102-182	Andean Trade Preference
3304	Approval of State laws	103-182	North American Free Trade (NAFTA)
3304	Approval of State laws	103-465	Uruguay Round Agreements Act
3306	Definitions	103-182	North American Free Trade (NAFTA)
3306	Definitions	103-465	Uruguay Round Agreements Act
3401	Definitions	89-809	Foreign Investors Tax Act of 1966
3401	Definitions	95-615	Foreign Earned Income Act of 1978
3402	Income tax collected at source	98-67	Caribbean Basin Econ.Recovery
3403	Liability for tax...	98-67	Caribbean Basin Econ.Recovery
3406	Backup withholding	98-67	Caribbean Basin Econ.Recovery
3502	Nondeductibility of taxes...	98-67	Caribbean Basin Econ.Recovery
3507	Advance payment of EIC	98-67	Caribbean Basin Econ.Recovery

Subtitle D – Misc. excise taxes

Sect.	Section title	Pub. L.#	Name of Act
4461	Imposition of tax (Harbor maint.)	103-182	North American Free Trade (NAFTA)
4971	Taxes on ...min. funding	103-465	Uruguay Round Agreements Act
4972	Tax on ...contributions...	103-465	Uruguay Round Agreements Act
4980B	Failure to satisfy...health plans	107-210	Trade Act of 2002
ch.45	repealed with this act	100-418	Omnibus Trade (OTCA)

Subtitle E – Alcohol, Tobacco and other excise taxes

Sect.	Section title	Pub. L.#	Name of Act
5001	Imposition, rate...	96-39	Trade Agreements Act of 1979
5001	Imposition, rate and attachment of tax	103-465	Uruguay Round Agreements Act
5002	Definitions *many other sect.	96-39	Trade Agreements Act of 1979
5002	Definitions	103-465	Uruguay Round Agreements Act
5005	Persons liable for tax	103-465	Uruguay Round Agreements Act
5007	Collection of tax ...	103-465	Uruguay Round Agreements Act
5061	Method of collecting tax	103-465	Uruguay Round Agreements Act
5066	Distilled spirits .. Foreign embassies..	103-465	Uruguay Round Agreements Act
5131	(drawback) eligibility ...	103-465	Uruguay Round Agreements Act
5132	(drawback) registration ...	103-465	Uruguay Round Agreements Act
5134	Drawback	103-465	Uruguay Round Agreements Act
5273	Sale,use, denatured ..spirits	103-465	Uruguay Round Agreements Act
5314	Special applic...certain provisions	103-465	Uruguay Round Agreements Act
5512	Control of products	103-465	Uruguay Round Agreements Act
5703	Liability for tax...	103-465	Uruguay Round Agreements Act
5871	Penalties	98-473	Trade & Tariff Act of 1984

* Many other sections of subtitle E were amended with Pub. L. 96-39, Trade Agreements Act of 1979. They're not included here since there is greater clarity of who or what is the subject of the tax.

Subtitle F – Procedure and Administration

Sect.	Section title	Pub. L.#	Name of Act
6011	General requirement of return...	95-615	Foreign Earned Income Act of 1978
6011	General requirement of return...	98-67	Caribbean Basin Econ.Recovery
6012	Persons required to make returns	95-615	Foreign Earned Income Act of 1978
6013	Joint returns of income...	98-67	Caribbean Basin Econ.Recovery
6015	Relief from joint & several...	89-809	Foreign Investors Tax Act of 1966
6018	Estate tax returns	89-809	Foreign Investors Tax Act of 1966
6042	Returns regarding ...dividends...	98-67	Caribbean Basin Econ.Recovery
6044	Returns ... patronage dividends	89-809	Foreign Investors Tax Act of 1966
6049	Returns regarding ...interest	98-67	Caribbean Basin Econ.Recovery
6051	Receipts for employees	98-67	Caribbean Basin Econ.Recovery
6051	Receipts for employees	103-465	Uruguay Round Agreements Act
6071	Time for filing return	100-418	Omnibus Trade (OTCA)
6076	repealed with act	100-418	Omnibus Trade (OTCA)
6091	Place for filing returns and other docs.	95-615	Foreign Earned Income Act of 1978
6103	Confidentiality ..of returns...	103-182	North American Free Trade (NAFTA)
6103	Confidentiality ..of returns...	107-210	Trade Act of 2002
6109	Identifying numbers	103-465	Uruguay Round Agreements Act
6161	Extension of time for paying tax	100-418	Omnibus Trade (OTCA)
6211	Definition of deficiency	100-418	Omnibus Trade (OTCA)
6213	restrictions..petition to Tax Court	100-418	Omnibus Trade (OTCA)
6214	Determinations by Tax Court	100-418	Omnibus Trade (OTCA)
6232	repealed with act	100-418	Omnibus Trade (OTCA)
6302	Mode or time of collection	100-418	Omnibus Trade (OTCA)
6302	Mode or time of collection	103-182	North American Free Trade (NAFTA)
6302	Mode or time of collection	103-465	Uruguay Round Agreements Act
6344	Cross references	100-418	Omnibus Trade (OTCA)
6401	Amounts treated as overpayment	98-67	Caribbean Basin Econ.Recovery
6413	Special rules...employment taxes	98-67	Caribbean Basin Econ.Recovery
6501	Limitations on assessment, collection	87-794	Trade Expansion Act of 1962
6501	Limitations on assessment, collection	89-809	Foreign Investors Tax Act of 1966
6501	Limitations on assessment, collection	100-418	Omnibus Trade (OTCA)
6511	Limitations on credit or refund	87-794	Trade Expansion Act of 1962

6511	Limitations on credit or refund	100-418	Omnibus Trade (OTCA)
6512	Limitations .. Petition to Tax Court	100-418	Omnibus Trade (OTCA)
6513	Time return deemed filed...	89-809	Foreign Investors Tax Act of 1966
6611	Interest on overpayments	100-418	Omnibus Trade (OTCA)
6621	Determination of rate of interest	103-465	Uruguay Round Agreements Act
6652	Failure to file certain info. returns...	98-67	Caribbean Basin Econ.Recovery
6653	Failure to pay stamp tax	98-67	Caribbean Basin Econ.Recovery
6654	Failure by indiv...to pay...	98-67	Caribbean Basin Econ.Recovery
6654	Failure by indiv...to pay...	103-465	Uruguay Round Agreements Act
6655	Failure by corp...to pay...	103-465	Uruguay Round Agreements Act
6662	Imposition of accuracy-related penalty	103-465	Uruguay Round Agreements Act
6682	False info...withholding	98-67	Caribbean Basin Econ.Recovery
6683	Failure of foreign corporation...	89-809	Foreign Investors Tax Act of 1966
6705	Failure by broker to provide notice...	98-67	Caribbean Basin Econ.Recovery
6724	Waiver; definition, special rules	100-418	Omnibus Trade (OTCA)
6724	Waiver; definition, special rules	107-210	Trade Act of 2002
6862	Jeopardy assessment, taxes other than...	100-418	Omnibus Trade (OTCA)
7205	Fraudulent withholding exemption...	98-67	Caribbean Basin Econ.Recovery
7215	Offenses with respect to collected taxes	98-67	Caribbean Basin Econ.Recovery
7241	repealed with act	100-418	Omnibus Trade (OTCA)
7422	Civil actions for refund	100-418	Omnibus Trade (OTCA)
7431	Civil damages...return information	98-67	Caribbean Basin Econ.Recovery
7443	Membership (Tax court)	98-473	Trade & Tariff Act of 1984
7512	Separate accounting	100-418	Omnibus Trade (OTCA)
7527	added with this act (returns & insurance)	107-210	Trade Act of 2002
7607	repealed with this act	98-473	Trade & Tariff Act of 1984
7652	Shipments to the United States	98-67	Caribbean Basin Econ.Recovery
7652	Shipments to the United States	100-418	Omnibus Trade (OTCA)
7652	Shipments to the United States	103-465	Uruguay Round Agreements Act
7652	Shipments to the United States	106-200	Trade and Development Act of 2000
7654	Coordination of U.S and...possessions...	98-67	Caribbean Basin Econ.Recovery
7701	Definitions	89-809	Foreign Investors Tax Act of 1966
7701	Definitions	98-67	Caribbean Basin Econ.Recovery
6050T	added with this act (health insurance)	107-210	Trade Act of 2002
7213A	Unauthorized inspection of return...	107-210	Trade Act of 2002

Subtitle I – Trust Fund Codes

Sect.	Section title	Pub. L.#	Name of Act
9504	Aquatic Resources Trust Fund	100-418	Omnibus Trade (OTCA)
9505	Harbor Maintenance Trust Fund	103-182	North American Free Trade (NAFTA)

It's a lot, but I wanted to show that the updates and changes are all over the code, not just a couple of sections.

This does not include subsequent changes made under a new act; for example: in the Taxpayer Relief Act of 1997 (Pub. L. 104-34) there were a couple of amendments to Title 26 sections 411 and 412 where they made reference to the Uruguay Round Agreements Act. However, subsequent changes to those sections will probably reference the Taxpayer Relief Act of 1997. Given the time and resources, I think it's likely that most sections of Title 26 could be linked to various trade or commerce acts. Of course that would make sense, since the original 'income tax' was part of a tariff act.

Implementing regulations

I also wanted to touch on implementing regulations, and what clue they may give about this topic.

Most of the actual language of the regulations I've read-- which has admittedly been limited to certain areas of the tax code—doesn't mention from which act or law the regulation pertains to implement or amend. I had seen a reference to the Tariff Act of 1930 a couple of times, though I don't currently recall which regulations I was looking at then.

However, when I did a keyword search on the GPO Access web site for the Federal Register, I found that many of the regulations mention the Act or law in the 'background' or 'summary' section prior to the actual wording or amendment to wording in the regulation. I'd like to list some of the regulations I found and which act(s) were referenced in the background portion of the page. I'll also add that there were a few regulations that were listed in the search results, but the pages were blank when I looked at them. None of the regulations listed which had blank pages are listed below.

Regulation# /date	Description of Regulation	Act mentioned
27 CFR parts 19,24,25,53,70,250,270,275,285 June 28,1995 final reg.	Time, place, method of return and payment	Uruguay Round
26 CFR§1.6662-2(d)(3)	Accuracy-related penalty	Uruguay Round
26 CFR §1.6664-1(b)(2)	Accuracy & fraud penalty-definitions	Uruguay Round
26 CFR §1.936-6(v)(E)(vi)	Intangible property income	Uruguay Round
26CFR 1.401(b)	Aug.1, 1997 final reg./ income taxes	Uruguay Round
31CFR part 210	Feb. 2, 1998 proposed / electronic payments	NAFTA

26CFR 1.731-2	Jan. 2, 1996 proposed/ partnership distribution	Uruguay Round
26CFR 1.420-1	Jan. 5, 2001 proposed/ Defined benefit plan 1990; and Uruguay Round Agreements	Revenue Reconciliation Act of
26CFR 1.417(e)	Apr. 7, 1998 final reg. / Valuation of plan dist. part of Uruguay Round Agreements	Retirement Protection Act as
26CFR 31.3402(r)-1	Dec.19, 1995 final reg./ Indian gaming withhold	Uruguay Round
22CFR part 213	Aug. 9, 1995 final reg/ Collection of Debts by Tax Refund offset Foreign Assistance Act of 1961 (authority for reg.)	
19CFR parts 24, 159, and 174 (partial) authority: 26 USC 4461, 4462; amended Oct. 20, 1999	Interest of taxes, duties, fees	Tariff Act of 1930 and NAFTA -

The next chapters will show additional evidence that a lot of the Tax Code is about foreign commerce. But before that, I wanted to add this last item, below, which I found in **Pub. L. 105-206; Internal Revenue Service Restructuring and Reform Act of 1998**. Ask yourself why it would be added to that act if the tax code weren't about foreign and similar types of commerce or trade?

SEC. 5003. CLARIFICATION OF DESIGNATION OF NORMAL TRADE RELATIONS.

(a) FINDINGS AND POLICY.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Since the 18th century, the principle of non-discrimination among countries with which the United States has trade relations, commonly referred to as “most-favored-nation” treatment, has been a cornerstone of United States trade policy.

(B) Although the principle remains firmly in place as a fundamental concept in United States trade relations, the term “most-favored-nation” is a misnomer which has led to public misunderstanding.

(C) It is neither the purpose nor the effect of the most-favored-nation principle to treat any country as “most favored”. To the contrary, the principle reflects the intention to confer on a country the same trade benefits that are conferred on any other country, that is, the intention not to discriminate among trading partners. (D) The term “normal trade relations” is a more accurate description of the principle of nondiscrimination as it applies to the tariffs applicable generally to imports from United States trading partners, that is, the general rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States.

(2) POLICY.—It is the sense of the Congress that—

(A) the language used in United States laws, treaties, agreements, executive orders, directives, and regulations should more clearly and accurately reflect the underlying principles of United States trade policy; and (B) accordingly, the term “normal trade relations” should, where appropriate, be substituted for the term “most-favored-nation”.

(b) CHANGE IN TERMINOLOGY.—

(1) TRADE EXPANSION ACT OF 1962.—The heading for section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881) is amended to read as follows: “**NORMAL TRADE RELATIONS**”.

(2) TRADE ACT OF 1974.—(A) Section 402 of the Trade Act of 1974 (19 U.S.C. 2432) is amended by striking “(most-favored-nation treatment)” each place it appears and inserting “(normal trade relations)”.

(B) Section 601(9) of the Trade Act of 1974 (19 U.S.C. 2481(9)) is amended by striking “most-favored-nation treatment” and inserting “trade treatment

based on normal trade relations (known under international law as most-favored-nation treatment)''.

(3) CFTA.—Section 302(a)(3)(C) of the United States Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking ''the most-favored- nation rate of duty'' each place it appears and inserting ''the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States''.

(4) NAFTA.—Section 202(n) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332(n)) is amended by striking ''most-favored-nation''.

(5) URUGUAY ROUND AGREEMENTS ACT.—Section 135(a)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3555(a)(2)) is amended by striking ''most-favored-nation'' and inserting ''normal trade relations''.

(6) SEED ACT.—Section 2(c)(11) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)(11)) is amended—

(A) by striking ''(commonly referred to as 'most favored nation status')''; and (B) by striking ''MOST FAVORED NATION TRADE STATUS'' in the heading and inserting ''NORMAL TRADE RELATIONS''.

(7) UNITED STATES-HONG KONG POLICY ACT OF 1992.— Section 103(4) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(4)) is amended by striking ''(commonly referred to as 'most-favored-nation status')''.

(c) SAVINGS PROVISIONS.—Nothing in this section shall affect the meaning of any provision of law, Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States relating to the principle of ''most-favored-nation'' (or ''most favored nation'') treatment. Any Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States that has been issued, made, granted, or allowed to become effective and that is in effect on the effective date of this Act, or was to become effective on or after the effective date of this Act, shall continue in effect according to its terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

5. More foreign commerce tie-ins

After I discovered the taxable income report by Larken Rose, I looked at the tax code and regulations for myself, to see if they really say what the report says they do, which they do. And I saw that the heading for the statutes, subchapter N - is called 'Source Rules and other general rules relating to foreign income.' During the time I worked in the transportation industry, I was mostly dealing with imports and exports. I dealt with U.S. Customs inspectors on a regular basis, as well as Agriculture inspectors, and occasionally FDA and Coast Guard personnel. While dealing with all of that I'd heard of something that were also called 'source rules'; having to do with country of origin markings or labeling, and import quotas and other related things. I also dealt with some things that are also included in the Internal Revenue Code, namely seizures, fines, penalties and lien notices. Of course, with Customs those things generally only attach to a specific shipment or incident, not one's entire bank account or home or other property, as the IRS alleges they do for their purposes.

All of that led me to wonder if perhaps the word 'source' used in the 16th amendment possibly meant something different than our now common use of the word. I also thought, if there were such a definition that pre-dated the 16th amendment, it would make it clearer what types of income are to be taxed under the 16th amendment; and would also fit in well with section 861. I decided to take a look in Title 19, and didn't find anything there. In Title 19 it's currently referred to as rules of origin, though it's possible that previous editions of the title were different, I don't know. However, I would like to add the dictionary ¹⁵ definition(s) for the word 'source' as well as the word 'derived' that I found, since those definitions certainly tie in to 'rules of origin'.

source *n* **1:** the beginning of a stream of water **2:** ORIGIN, BEGINNING **3:** a supplier of information. (*note: caps. in definition 2 were in the dictionary.*)

derive *vb* de-rived; de-riv-ing ... [fr. *de-* from+ *rivus* stream] **1:** to receive or obtain from a source **2:** to obtain from a parent substance **3:** to trace the origin, descent, or derivation of **4:** to come from a certain source **5:** INFER, DEDUCE.

Then I decided to also look in Title 22- Foreign Relations and Intercourse, since various trade acts and agreements tie-in and also amend portions of that title. I did find 2 identical definitions for the word 'source' in the regulations for Title 22.

[Code of Federal Regulations]
[Title 22, Volume 1]
[Revised as of April 1, 2001]
From the U.S. Government Printing Office via GPO Access

Sec. 201.01 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The Act means the **Foreign Assistance Act of 1961**, as amended from time to time. (**Note: Pub. L. 87-195**)

(b) USAID means the U.S. Agency for International Development or any successor agency, including when applicable, each USAID Mission abroad.

[..]

(x) *Source means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source means the country from which the commodity was shipped to the free port or bonded warehouse. (22 CFR §201.01)*

[...]

PART 228--RULES ON SOURCE, ORIGIN AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

Subpart A--Definitions and Scope of This Part

[...]

Sec. 228.01 Definitions.

As used in this part, the following terms shall have the following meanings: [...]

(l) *Source means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, ``source'' means the country from which the commodity was shipped to the free port or bonded warehouse. (22CFR §228.01(l))*

And we can definitely tie the Foreign Assistance Act of 1961 into the IRC [amended by the Trade Act of 1974] see below:

PUBLIC LAW 104-188—AUG. 20, 1996 - Small Business Job Protection Act of 1996

SEC. 1954. CONFORMING AMENDMENTS.

(a) ... (3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking “502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))” and inserting “507(4) of the Trade Act of 1974”;

(B) in paragraph (2) by striking “505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))” and inserting “504 of the Trade Act of 1974”;

and ...

And then this, from the Trade Act of 2002 (Pub. L. 107-210), which provides an indirect link:

SEC. 4102. AMENDMENTS TO GENERALIZED SYSTEM OF PREFERENCES.

(a) ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.—

Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)(F)) is amended by striking the period at the end and inserting “or such country has not taken steps to support the efforts of the United States to combat terrorism.”.

And:

(b) DEFINITION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended by amending subparagraph (D) to read as follows:

“(D) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, as defined in paragraph (6); and”.

Showing that, 1.) the Foreign Assistance Act of 1961 was amended by reference to the Trade Act of 1974, and 2.) the Trade Act of 2002 made amendments via the Trade Act of 1974. Section (b) above shows the indirect link from one to the other, with another link via 19 U.S.C. §2462.

All of the above linkage was because I wanted to plug in a slightly different phrase instead of the word 'source' in the 16th amendment, and see if it doesn't work much better with the income tax's origin as a tariff act, and with section 861. First, as it currently reads:

Amendment XVI

The Congress shall have 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

Now, slightly revised:

The Congress shall have power to lay and collect taxes on incomes, from whatever country of origin derived, without apportionment among the several States, and without regard to any census or enumeration

The revised version at least gives more of a clue that it has to do with foreign commerce. Or maybe plug in: 'from whatever type of foreign commerce derived'. Even better! How about an amendment to re-word the 16th amendment, so future generations won't allow themselves to fall into the confusion we have over the issue?

In addition, we should clarify that the word "without" in the 16th amendment means outside of the physical boundary that still requires a direct tax, such as that on one's earnings, to be apportioned among the several states.

Ok, there's more to tie it into foreign commerce, especially tariffs and Customs laws.

First I'll go back to the Internal Revenue Code of 1939 again. Many of those who have researched this topic, namely the income tax; have for the most part, looked mostly at Title 26. Since I was looking at it from a possible trade perspective and looking at what may have preceded the 16th amendment, I found some excellent clues. The first is below:

Chapter 41 – Collectors of Internal Revenue

Subchapter C – POWERS AND DUTIES

Sec. 3960. SUPERINTENDENCE OF EXPORTS AND DRAWBACKS¹

In any port of the United States where there is more than one collector of internal revenue, the Secretary may designate one of them to have charge of all matters relating to the exportation of articles subject to tax under internal revenue laws; and at any port where he may deem it necessary, there shall be appointed by him an officer to superintend all matters of exportation and drawback, under the direction of the collector. The compensation of the officer last named shall be prescribed by the Secretary. At any port where there is no superintendent of exports, all the duties and services

¹ Definition of drawback, from www.customs.gov website, under NAFTA link: Drawback is a refund, reduction or waiver in whole or in part of Customs duties collected upon importation of an article or materials which are subsequently exported. Under NAFTA, this refunded amount is the lesser of the amount of duties paid upon importation into the NAFTA territory and the total amount paid on the finished good is the NAFTA country to which it is exported. (NAFTA-Pub. L. 103-182)

required of such officers shall be performed by the collector of internal revenue designated to have charge of exportation. All the books, papers, and documents in the bureau of drawbacks in the respective ports, relating to the drawback of taxes paid under any internal revenue law, shall be delivered to the collector in charge of exportation.

This raised my eyebrows, since during the many years I worked on port property or dealt with those who worked there, including Customs, etc. I never once saw or heard of a collector of internal revenue, let alone one in charge of exportation. I did hear of a Collector of Customs, but never internal revenue. And more:

SEC. 3726. CUSTOMS LAWS APPLICABLE

The provisions of law applicable to the remission or mitigation by the Secretary of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred under the internal revenue laws.

This is actually identical to the current **26 U.S.C. § 7327**. Also, prior to having a copy of the 1939 Code to investigate, I found the following in the current Title 19 – Customs Duties:

19 USC Sec. 1317 - Tobacco Products

(a) Exportation of tobacco products

The shipment or delivery of manufactured tobacco ... beyond the jurisdiction of the internal-revenue laws of the United States as defined by section 2197(a) of title 26 shall be deemed exportation within the meaning of the customs and internal-revenue laws.

I discovered that section 2197 was in the 1939 IRC, not the 1954/1986 edition. I looked in the beginning part of the current Title 26, where there's a cross-reference for the 1939 and 1986 IRC. I found that 1939 section 2197(b) was now 1986 section 5704(b). No mention in the cross reference of what happened to 2197(a). I did discover, as a note in Title 19, that it was merged into 26USC 5704(b). So let's now look at 1939 section 2197, (a) and (b).

SEC. 2197. TERRITORIAL EXTENT OF LAW.

(a) In General – The internal revenue laws imposing taxes on tobacco, snuff, cigars or cigarettes shall be held to extend to such articles produced anywhere within *the exterior boundaries of the United States*, whether the same be within a collection district or not.

(b) Exportation Free of Internal Revenue Tax – The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond *the jurisdiction of the internal revenue laws of the United States, as defined by subsection (a)*, shall be deemed exportation within the meaning of the internal revenue laws applicable to the exportation of such articles without payment of internal revenue tax. (emphasis added).

Just in case there are those who want to say that the 1939 IRC was repealed when the 1954 / 1986 code was enacted, I wanted to show a bit of the current Title 26:

Sec. 7851. Applicability of revenue laws ...

(b) Effect of repeal of Internal Revenue Code of 1939

(1) Existing rights and liabilities

The repeal of any provision of the Internal Revenue Code of 1939 shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; *but all rights and liabilities under such code shall continue, and may be enforced in the same manner, as if such repeal had not been made.*

(2) Existing offices

The repeal of any provision of the Internal Revenue Code of 1939 shall not abolish, terminate, or otherwise change -
(A) *any internal revenue district,*
(B) *any office, position, board, or committee, or*
(C) *the appointment or employment of any officer or employee,*
existing immediately preceding the enactment of this title, the continuance of which is not manifestly inconsistent with any provision of this title, but the same shall continue unless and until changed by lawful authority.
(emphasis added)

And that is going to bring me to the liability and assessment portions of the 1939 IRC, as well as revenue districts. Since the dates of any amendments, additions, etc. to the current tax code only go back as far as 1954, I decided to look at 'Table A' of the 1939 IRC, to see the amendment or other such dates for various portions of that code. I was particularly looking for dates preceding 1913, since that was when the 16th amendment was enacted.

Some say it was fraudulently approved by the Secretary of State, and/or that it wasn't lawfully ratified, but we'll leave that theory alone. Whether it was or wasn't doesn't really affect this discussion.

I did discover, however, that many or most of the provisions in the 1939 IRC relating to assessment and collection came well before 1913. What that tells me is that whatever Federal or internal revenue taxes the citizens of the several states may have been liable for prior to 1913 DID NOT CHANGE with the 16th amendment. If they did, how is it that the revenue districts and assessment authority, etc. mostly all derived from laws prior to 1913? It's only the 'individual income tax' portions of the IRC that were added or amended in 1913 or later. But, let's look at some details, taken from the 1939 Internal Revenue Code.

SEC. 3650. COLLECTION DISTRICTS.

(a) Establishment and Alteration – For the purpose of assessing, levying, and collecting the taxes provided by the internal revenue laws, the President may establish convenient collection districts, and may from time to time alter said districts.

(b) Number – The whole number of collection districts for the collection of internal revenue shall not exceed 65.

(c) Boundaries –

(1) Hawaii – The Territory of Hawaii (*) shall constitute a district for the collection of the internal revenue of the United States, with a collector whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary shall direct.

(2) Elsewhere – For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district.

(*) – Note: this was before Hawaii was admitted as one of the several states of the Union.

Note2: **Section 3797 Definitions** (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof – (10) State – The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title. (26USC 3797(a)(10) – 1939 IRC)

So basically, what I get out of that is that the Collection districts do not include any part of the several states, such as Fresno, CA or Ogden, UT. Collection districts were ONLY in the Territories and the District of Columbia. Also, sections 3650(a) and 3650(c)(2) are from RS 3141, amended Feb. 27, 1877. And section 3650(c)(1) was added or amended on Apr. 20, 1900.

Now we move to section 3640- again from the 1939 IRC:

Sec. 3640. ASSESSMENT AUTHORITY

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

And, section 3644 also from the 1939 IRC:

Sec. 3644. ESTABLISHMENT BY REGULATION OF MODE OR TIME OF ASSESSMENT.

Whenever the mode or time of assessing any tax which is imposed is not provided for, the Commissioner may establish the same by regulation.

For both sections 3640 and 3644, I consulted Table A, to get information on where they were derived, either date of act or revised statutes. They both showed an R.S. number, and I found those in Table E – Derivation of Revised Statutes relating to internal revenue. It then lists the Revised Statutes section, date and original acts. Section 3640 (assessment authority) shows R.S. 3182, with dates of 1866, July 13 and 1872, Dec. 24. Section 3644 (Regulation authority) has R.S. 3447, with a date of 1868, July 20.

Now I'll go back to the IRS history, retrieved from the irs.gov web site.

1894 - The Wilson Tariff Act revived the income tax and an income tax division within the Bureau of Internal Revenue was created.

To me, it appears that while the Bureau of Internal Revenue was created prior to these dates (BIR created in 1862), their assessment authority and regulation authority came prior to the creation of the income tax division.

Withholding

Once I studied enough of Subtitle A – income taxes, I realized that I had most likely not been receiving 'taxable income' all of these years, though I had done self-assessments claiming I had. That made me want to turn my attention to the question of withholding, since all of my employers gave me a W-4 form to fill out to have taxes withheld. In that light, I do want to touch briefly on that subject also, and it will lead us to the same conclusion.

Apparently, the current withholding scheme started in 1943, with the passage of the Victory Tax, or the Current Tax Payment act, I believe it's where the IRS began to call it a 'pay-as-you-go' tax.

However, when I refer to the Revenue Act of 1921 mentioned earlier, I see that there were withholding provisions then, as in now. And the subject of withholding was the same, so I'll refer to the current Title 26. There is a term in Title 26 called a withholding agent. It is defined at section 7701 (a)(16): Withholding agent – 'any person required to deduct and withhold any tax under the provisions of sections 1441, 1442, 1443 or 1461'. Sections 1441, 1442, 1443 and 1461 are all in Subtitle A – Income taxes.

§1441 – Withholding of tax on nonresident aliens.

§1442 – withholding of tax on foreign corporations

§1443 – Foreign tax exempt organizations

§1461 – Liability for withheld tax. (liability stems from withholding on above 3 categories.)

The taxes withheld by most American employers stem from Subtitle C – Employment taxes. However, those provisions don't actually impose any tax, they just say 'in addition to other taxes, there shall be withheld...' and the only other taxes that they would be 'in addition to' are those that are required to be withheld under sections 1441, 1442 or 1443, shown above. As far as I know, the employment taxes began in 1935 with the Public Salary Tax Act, now called Social Security or FICA (Federal Insurance Contributions Act). However, I did find a copy of the original 1935 act, and the wording regarding withholding is similar, saying 'in addition to other taxes...' I think this whole subject would also bring in the question of which definition of 'State' is being used, but I don't want to go there now.

I also discovered that while Subtitle C – employment taxes uses the term 'wages' in regards to remuneration for services, Subtitle A- income taxes, includes 'wages' as part of their definition for 'earned income'. And the only place 'earned income' is specifically mentioned in regards to citizens or residents of the U.S., as far as I know, is in section 911, and applies to citizens or residents living abroad.

I found many other clues on the withholding question, but they all lead to the same conclusion when looked at in the light of the other information about foreign commerce. I think that there may be some exceptions for Federal government employees, but I haven't researched that question in any depth.

I want to share a couple of other clues I found, and one is from 26 CFR §601.104(a)(2) Withholding of tax at source. It says (in part):

"The tax withheld at the source on wages is applied as a credit ... The chief means of collecting the income tax due from nonresident alien individuals and foreign corporations having U.S. source gross income ... The tax withheld is allowed as a credit in payment of the tax imposed on such nonresident alien individual and foreign corporation."

Those are the only 2 examples it mentions that there is a 'tax imposed'. Curious, isn't it? Lastly on the subject of withholding, I found a reprint of the circular the Treasury Department requested employers put in their employees pay envelopes, quoted below:

PAY-AS-YOU-GO INCOME TAX

The new "Pay-As-You-Go" income tax law became effective July 1, 1943. It requires your employer to withhold a certain proportion of your pay. This amount is *not a new tax*, but is in payment of your regular Federal Income and Victory Tax.

Beginning with the pay you are receiving today your employer has withheld this tax from your wage. Therefore, you have now begun to pay your regular Income Tax and Victory Tax as you earn the income subject to that tax.

The money withheld is not kept by your employer, but is turned over to the United States Treasury. It is *your money*, and stands to your credit as a *prepayment* of your Federal Income and Victory Tax.

After the close of the year your employer will give you a receipt showing exactly how much of your money has gone to the United States Treasury toward the payment of your taxes. Keep that receipt. It is your evidence of tax paid.

Circular WT June 4, 1943 ¹⁶

And somehow, we've mostly all grown up believing that we 'earn the income subject to that tax.' A lot more of us are becoming pretty clear that's not the case. It also brings up questions of the definition of employer and employee, and how statutes and regulations are not always what they may seem at first glance. It also makes President Clinton's famous statement make sense, when he said "that depends on what the definition of is, is?" . In case you're curious, the

definition of employee is one who works for the Federal government, which makes the employer the Federal Government, at least for purposes of Social Security / FICA withholding. Remember, it was originally called the Public Salary Tax Act.

6. Conclusion

Like most Americans, I grew up being told that any money I earn is taxable by the Federal Government. If we question this, we're told that the 16th amendment is what allows them to do this, and that it over-rides the other provisions of the Constitution that say that direct taxes must be apportioned among the several states according to their population. Some who dare question that answer are then labeled as 'tax cheats' or 'tax protestors', by no less august publication than the New York Times.

One of the last things I wanted to add, which also helps lead me to my current conclusion on the topic, is an item I found in the regulations for Title 19 – Customs duties. This regulation comes from the Commerce Department, rather than Treasury. I've only included relevant portions, below:

[Code of Federal Regulations]
[Title 19, Volume 3]
[Revised as of April 1, 2002]
From the U.S. Government Printing Office via GPO Access
[CITE: 19CFR351.102]

[Page 191-194]

TITLE 19--CUSTOMS DUTIES

CHAPTER III--INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 351--ANTIDUMPING AND COUNTERVAILING DUTIES--Table of Contents

Subpart A--Scope and Definitions

Sec. 351.102 Definitions.

(a) Introduction. The Act contains many technical terms applicable to antidumping and countervailing duty proceedings. In the case of terms that are not defined in this section or other sections of this part, readers should refer to the relevant provisions of the Act. This section:

- (1) Defines terms that appear in the Act but are not defined in the Act;
- (2) Defines terms that appear in this Part but do not appear in the Act; and
- (3) Elaborates on the meaning of certain terms that are defined in the Act.

(b) Definitions.

Act. ``Act'' means the Tariff Act of 1930, as amended.

[...]

Direct tax. ``Direct tax'' means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

[...]

Import charge. ``Import charge'' means a tariff, duty, or other fiscal charge that is levied on imports, other than an indirect tax.

Indirect tax. ``Indirect tax'' means a sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.

[...]

Secretary. "Secretary" means the Secretary of Commerce or a designee. The Secretary has delegated to the Assistant Secretary for Import Administration the authority to make determinations under title VII of the Act and this Part.

[...]

URAA. "URAA" means the Uruguay Round Agreements Act.

[62 FR 27379, May 19, 1997, as amended at 63 FR 13520, Mar. 20, 1998; 63 FR 65407, Nov. 25, 1998] (19 CFR §351.102)

The above definitions, taken together with the rest of the information previously shown, leads me to believe that the Federal Income tax is a direct tax that does not require apportionment among the states because it is in reference to foreign commerce, much like an import duty, and therefore could not be apportioned. Which of course could also put it into the category of an excise, but either way it doesn't apply directly to me. There may be exceptions, such as U.S. possessions and territories and the District of Columbia, since Congress does have exclusive jurisdiction over those areas. However, statutes regarding those particular areas are much clearer in the Code itself.

Lastly, I wanted to add a few paragraphs from *Thomas Jefferson : Second Annual Message to Congress* on December 15, 1802.¹⁷

When we assemble together, fellow-citizens, to consider the state of our beloved country, our just attentions are first drawn to those pleasing circumstances which mark the goodness of that Being from whose favor they flow and the large measure of thankfulness we owe for His bounty. Another year has come around, and finds us still blessed with peace and friendship abroad; law, order, and religion at home; good affection and harmony with our Indian neighbors; our burthens lightened, yet our income sufficient for the public wants, and the produce of the year great beyond example. These, fellow-citizens, are the circumstances under which we meet, and we remark with special satisfaction those which under the smiles of Providence result from the skill, industry, and order of our citizens, managing their own affairs in their own way and for their own use, unembarrassed by too much regulation, unoppressed by fiscal exactions.

On the restoration of peace in Europe that portion of the general carrying trade which had fallen to our share during the war was abridged by the returning competition of the belligerent powers. This was to be expected, and was just. But in addition we find in some parts of Europe monopolizing discriminations, which in the form of duties tend effectually to prohibit the carrying thither our own produce in our own vessels. From existing amities and a spirit of justice it is hope that friendly discussion will produce a fair and adequate reciprocity. But should false calculations of interest defeat our hope, it rests with the Legislature to decide whether they will meet inequalities abroad with countervailing inequalities at home, or provide for the evil in any other way. [...]

In the Department of Finance it is with pleasure I inform you that the receipts of external duties for the last twelve months have exceeded those of any former year, and that the ratio of increase has been also greater than usual. This has enabled us to answer all the regular exigencies of Government, to pay from the Treasury within one year upward of \$8,000,000, principal and interest, of the public debt, exclusive of upward of one million paid by the sale of bank stock, and making in the whole a reduction of nearly five millions and a half of principal, and to have now in the Treasury \$4,500,000, which are in a course of application to the further discharge of debt and current demands. Experience, too, so far, authorizes us to believe, if no extraordinary event supervenes, and the expenses which will be actually incurred shall not be greater than were contemplated by Congress at

their last session, that we shall not be disappointed in the expectations then formed. But nevertheless, as the effect of peace on the amount of duties is not yet fully ascertained, it is the more necessary to practice every useful economy and to incur no expense which may be avoided without prejudice.

The collection of the internal taxes having been retarded, it will be some time before the system is closed. It is not yet been thought necessary to employ the agent authorized by an act of the last session for transacting business in Europe relative to debts and loans. Nor have we used the power confided by the same act of prolonging the foreign debt by re-loans, and of redeeming instead thereof an equal sum of domestic debt. Should, however, the difficulties of remittance on so large a scale render it necessary at any time, the power shall be executed and the money thus unemployed abroad shall, in conformity

¹ From "We The People" website, at <http://www.givemeliberty.org>

² U.S. Government Printing Office, <http://www.access.gpo.gov>

³ All cites from the various titles of the U.S.Code / Titles were obtained from the Congressional website; <http://www.house.gov> , Title_7.doc is version dated 01/22/02.

⁴ From Title_26.doc, Jan. 2, 2001 edition, downloaded from <http://www.house.gov>

⁵ Internal Revenue Code and appendix With 1939 and 1940 Amendments, © 1940 Prentice-Hall, Inc. New York, NY

⁶ From the IRS web site: <http://www.irs.gov>

⁷ From Becraft Briefs, <http://fly.hiwaay.net/~becraft/> The Statutes At Large of the United States of America, Vol. XLII, Part 1, Government Printing Office, Washington DC, 1923.

⁸ Title_19.doc, retrieved from house.gov website, 1/2/01 edition.

⁹ Retrieved from <http://www.findlaw.com>, Flint v. Stone Tracy Co., 220 US 107

¹⁰ U.S. Customs current website at: <http://www.customs.gov> under the Homeland Security Department, previous Customs website was under the www.ustreas.gov address.

¹¹ Government Executive Magazine, *The Big Wheel of Trade*, June 1, 1998. <http://www.GovExec.com>

¹² <http://www.washingtontraderereports.com/WTO&GATT/GATT1947.htm>

¹³ U.S. Department of State, International Information Programs; February 2000; <http://www.usinfo.state.gov>

¹⁴ Distributed by the Office of International Information Programs, U.S. Department of State. Web site: <http://usinfo.state.gov>

¹⁵ The Merriam-Webster Dictionary, © 1974 by G. & C. Merriam Co., Springfield, Mass. 01101.

¹⁶ Kellems, Vivien, Toil, Taxes and Trouble, © 1952 E.P. Dutton & Co.,Inc. New York, pg. 111.

¹⁷ The Avalon Project: Jefferson: Reports to Congress (2nd), © 1996, The Avalon Project at Yale Law School. (<http://www.yale.edu/lawweb/avalon/avalon.htm>)

with that law, be faithfully applied here in equivalent extinction of domestic debt. When

effects do salutary result from the plans you have already sanctioned; when merely by avoiding false objects of expense we are able, without a direct tax, without internal taxes, and without borrowing to make large and effectual payments toward the discharge of public debt and the emancipation of our posterity from that mortal canker, it is an encouragement, fellow-citizens, of the highest order to proceed as we have begun in substituting economy for taxation, and in pursuing what is useful for a nation placed as we are, rather than what is practiced by others under different circumstances. And whensoever we are destined to meet events which shall call forth all the energies of our countryman, we have the firmest reliance on those energies and the comfort of leaving for calls like these the extraordinary resources of loans and internal taxes. In the meantime, by payments of the principal of our debt, we are liberating annually portions of the external taxes and forming from them a growing fund still further to lessen the necessity of recurring to extraordinary resources.

Substituting economy for taxation. Citizens managing their own affairs, in their own way and for their own use. What radical concepts! Will we ever see such a time again in our great country? I surely hope so.

Questions or comments ?

If you have questions or comments, you can send them via my contact link on my website <https://isaiah613ministry.com> or you can find me on X/Twitter or Truth Social as @ciawatson. However, I will not give any specific advice regarding handling the IRS or determining your tax liability or other related issues. There are a lot of online resources for doing your own research, many of them listed under endnotes.

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THE END