

1  
2  
3 **POINT PAPER**

4 **TO:** United Services Automobile Association (“USAA”) Officers and Agents  
5 Notice to agent is notice to principal—notice to principal is notice to agent

6 **FROM:** USAA Members for the Rule of Law

7  
8 **SUBJECT:** USAA CIP policy Conjoins American Nationality with a U.S. person Tax status—  
9 Abridging the Rights of State Citizens Under the Constitution by Compelling a Domestic  
10 Federal Civil Status as a Condition for Banking with USAA.

11  
12 **PROBLEM:** USAA conjoins political status with civil status in its Customer Identification Program  
13 (“CIP”), ostensibly through an “in-house policy,” precluding members from establishing  
14 a nonresident alien civil status for the purposes of the federal income tax. A  
15 misapplication of the terms “United States” as defined in the Internal Revenue Code  
16 (“IRC”) and “citizen” as defined in its implementing Treasury Regulations by USAA is  
17 the root cause. Political status, otherwise known as nationality, is commuted to  
18 Americans in a number of ways. Insofar as nationality alone is at issue, all members of  
19 the American political community are members of the nation of the United States of  
20 America and entitled to a U.S. passport, regardless of how their nationality is commuted.  
21 However, under the American system of federalism, legislative sovereignty within the  
22 nation is diffused across many civil jurisdictions. As civil status under federal statutory  
23 law is based on domicile and/or residence, American nationals domiciled and resident in  
24 a federally foreign civil jurisdiction (within any of the fifty states), although politically  
25 domestic, are alien for the purposes of certain federal laws. Diffused legislative  
26 sovereignty under the American system of federalism is the primary reason for the  
27 differing methods by which political and civil status are commuted. USAA’s conjoining  
28 of political status with civil status effectively “nationalizes” state citizens under federal  
29 statutory law, nullifies constitutional protections inherent in state citizenship created by  
30 design, and potentially exposes USAA officers and agents to civil and criminal penalties.

31  
32 **DISCUSSION:**

33  
34 A misapplication of the terms “United States” and “citizen” as defined in the IRC and Treasury  
35 Regulations respectively can result in an abridgement of customer rights when financial institutions treat  
36 political status and civil status as being one-in-the-same within a CIP. There are multiple legal definitions  
37 for the term “United States.” See *Hooven & Allison Co. v. Evatt*, 324 U.S. 652 (1945). There are also  
38 differing legal contexts for the term “citizen”—political and civil. See *Baldwin v. Franks*, 120 U.S. 678  
39 (1887). Affirming the status of “United States citizen” in a civil context establishes a legally-binding  
40 declaration of federal domicile, and is not an affirmation of how American nationality is commuted. The  
41 implications of establishing a status of “United States citizen” in a civil context, albeit **legal when elected**  
42 (knowingly or otherwise), is **illegal when wrongfully compelled**, and undermines the compelled  
43 individual’s constitutionally protected right to freely associate under the First Amendment.

44  
45 Although tax-related definitions are themselves artfully constructed, a technically competent individual  
46 can ascertain their true and correct scope not only by applying the tax code and its regulations in light of  
47 their constitutional limitations, but through maxims of law and rules of statutory construction.  
48 Additionally, the IRS forthrightly reveals the scope of many legal terms on their own website and in their  
49 publications. One such example is illustrated on the IRS website where the term “U.S. National” is  
50 presented in both its more commonly understood political sense and in its civil sense for the purposes of  
51 the federal income tax.

1 Proceeding to the IRS website and following the below prescribed menu hierarchy will bring one to the  
 2 following webpage:

3  
 4 *www.irs.gov*

5 >*Businesses*

6 >*Small Business/Self-Employed*

7 >*International Taxpayers*

8 >*Foreign Students/Scholars*

9 >*Bullet 8—Immigration Terms and Definitions Involving Aliens*

10  
 11 <http://www.irs.gov/businesses/small/international/article/0,,id=129236,00.html>  
 12

The screenshot shows the IRS website page titled "Immigration Terms and Definitions Involving Aliens". The page is viewed in Mozilla Firefox. The address bar shows the URL: [www.irs.gov/businesses/small/international/article/0,,id=129236,00.html](http://www.irs.gov/businesses/small/international/article/0,,id=129236,00.html). The page content includes a navigation menu with "Businesses" selected, and a sidebar with "Small Business/Self-Employed" and "International Taxpayers Topics". The main content area is titled "Immigration Terms and Definitions Involving Aliens" and contains definitions for "Alien", "U.S. National", and "U.S. Citizen". The "U.S. National" definition is highlighted with a red box.

**U.S. National**  
 An individual who owes his sole allegiance to the United States, including all U.S. citizens, and including some individuals who are not U.S. citizens. For tax purposes the term "U.S. national" refers to individuals who were born in American Samoa or the Commonwealth of the Northern Mariana Islands.

13  
 14  
 15 The text in the red-box above reads as follows:

16  
 17 ***U.S. National***

18 *An individual who owes his sole **allegiance to the United States**, including all U.S.*  
 19 *citizens, and including some individuals who are not U.S. citizens. **For tax purposes** the*  
 20 *term "U.S. national" refers to individuals who were born in American Samoa or the*  
 21 *Commonwealth of the Northern Mariana Islands. **[emphasis added]***  
 22

1 **Question: Why does the term “U.S. national” take on a different meaning for tax purposes?**

2  
3 **Answer: Tax status is based on domicile and/or residence—not nationality.**

4  
5 **The IRS webpage above forthrightly reveals that for the purposes of the federal income tax,**  
6 **statuses are to be applied in their civil sense and not their political sense.** The above-styled  
7 description of the term “U.S. National” contains two segments. The first segment presents the term in its  
8 more commonly-understood political sense—describing all members of the nation of the United States of  
9 America. In short, it circumscribes all U.S. passport holders. The second segment however is more  
10 restrictive, as it does not include the members of our nation who obtained their political status  
11 (nationality) through the Fourteenth Amendment (citizens within the fifty states), or through the  
12 “citizenship clause” of the Fourteenth Amendment extended *ex proprio vigore* through an Act of  
13 Congress (citizens of Puerto Rico, Guam, the U.S. Virgin Islands (“USVI”), and citizens of the  
14 Commonwealth of the Northern Mariana Islands (“CNMI”) who have not made a non-citizen election).

15  
16 The latter segment reveals that for tax purposes, the acronym “U.S.” as used in the term “U.S. national” is  
17 equivalent in meaning to the geographical “United States” defined in 26 U.S.C. § 7701(a)(9). The  
18 geographical “United States” of 26 U.S.C. § 7701(a)(9) describes the territorial subdivision of the nation  
19 where an Act of Congress is locally applicable, and does not include any of the federally foreign civil  
20 jurisdictions of the fifty states where Congress enjoys only subject matter jurisdiction. Understanding this  
21 reality is of the utmost importance. Misapplying the term “United States” in a political sense rather than  
22 its civil, geographical sense, results in a tremendous degradation of legal status and rights under the IRC.

23  
24 The forthright admission by the IRS as to the alternative meaning of the term “U.S. national” for tax  
25 purposes is important because it demonstrates the exclusivity of political status to that of civil status.  
26 Stated more plainly—nationality and tax status are mutually exclusive issues. The former identifies one  
27 as a member of the national body politic, nation, or country—whereas the latter is determined through a  
28 particular incidence of domicile and/or residence within the collective civil jurisdiction defined as the  
29 geographical “United States” of 26 U.S.C. § 7701(a)(9)—a territorial subdivision within the nation where  
30 an Act of Congress is locally applicable. The geographical “United States” of 26 U.S.C. § 7701(a)(9)  
31 describes a civil jurisdiction for determining tax status—not the applicability of the tax as some believe.

32  
33 To demonstrate the disparate difference between political status and civil status as revealed by the IRS on  
34 their own web page, four sub-sections will be developed under the “Discussion” section of this point  
35 paper. A thorough analysis of what constitutes a state and a nation will be developed first in the “State  
36 and United States—Fundamentals” sub-section. Thereafter, the methods by which Americans obtain their  
37 political status (nationality) will be addressed in the “Political Citizenship” sub-section. As tertiary, the  
38 method by which civil status is commuted for tax purposes will be addressed in the “Civil Citizenship”  
39 sub-section. Finally, the term “U.S. National” and its two senses will be analyzed in the sub-section  
40 entitled “U.S. National—Political and Civil Senses.” In this final sub-section, the political and civil  
41 meanings of the term are analyzed and established as mutually exclusive contexts by the IRS on their own  
42 website. The “U.S. National—Political and Civil Senses” sub-section ties together the first three sub-  
43 sections and establishes as irrefutable the exclusivity of the two contexts used by the IRS on their  
44 website—supported with statute, code, regulations, court precedent, and secondary sources of law.

45

**State and United States—Fundamentals**

One reason for the misapplication of so many federal laws stems from the simple fact that many people have an incorrect notion of what constitutes a state and a nation. If shown the images of **Figure 1** below, many from a sample group would perceive the first image as the state of Texas, and the second image as the fifty states, or the nation of the United States of America.



*Perception: state of Texas*

*Perception: the fifty states, or the U.S.A.*

**Figure 1. Perception Does Not Always Reflect Reality**

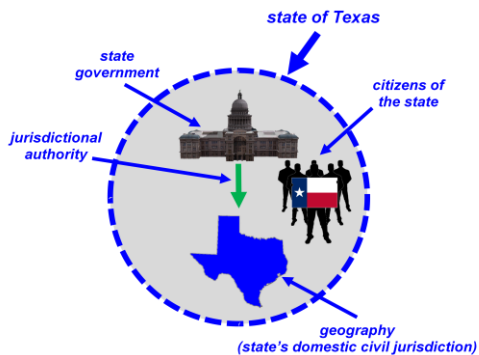
It is important however, to rectify perception when it does not coincide with reality. The legal definitions of “state” and “body politic” as published in Black’s Law Dictionary reveal the reality of the matter.

*state* –The political system of a body of people who are politically organized; the system of rules by which jurisdiction and authority are exercised over such a body of people. The organ of the state by which its relations with other states are managed is the government.

*Black’s Law Dictionary, 8<sup>th</sup> Edition 2004*

*body politic* – A group of people regarded in a political sense and organized under a common governmental authority.

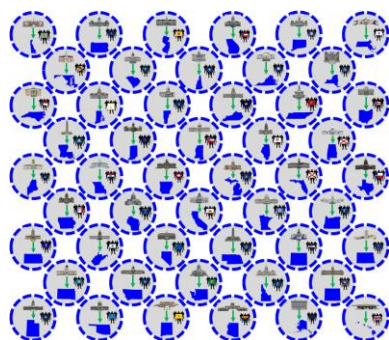
*Black’s Law Dictionary, 8<sup>th</sup> Edition 2004*



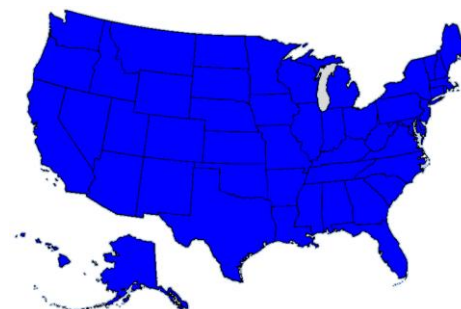
*Reality: state of Texas—a body politic*

*Reality: civil jurisdiction—not a state*

**Figure 2. A State is a Body Politic—The Geography therein, its Civil Jurisdiction**



*The fifty states—political sense*



*The fifty states—geographical sense  
fifty collective foreign civil jurisdictions*

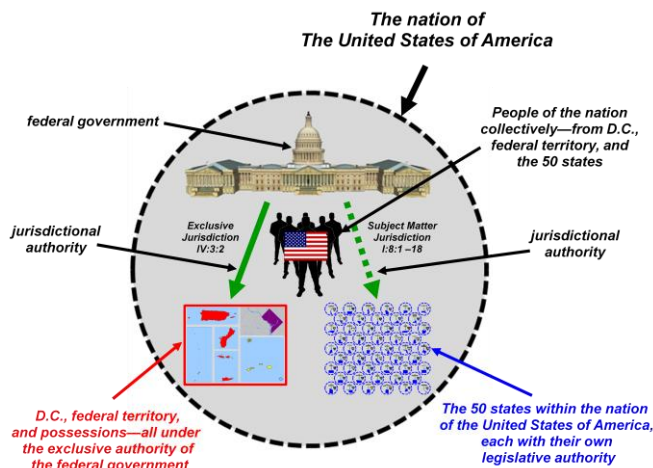
**Figure 3. The Fifty States in their Political Sense and in their Geographical Sense**

Black’s Law Dictionary defines the term “nation” as follows:

**nation** – A community of people inhabiting a defined territory and organized under an independent government; a sovereign political state. When a nation is coincident with a state, the term nation-state is often used.

*Black’s Law Dictionary, 8<sup>th</sup> Edition 2004*

A nation, like a state, is a body politic comprising people, territory, and government. A nation is itself a state. A state is a political subdivision within a nation. Counties are political subdivisions within a state, as they too comprise people, territory, and government. Nations are not geographical entities. The geography of a nation or state is only a component of that body politic. The nation itself constitutes the political jurisdiction of its general government. The territory within the nation constitutes the civil jurisdiction of that government insofar as that authority is granted by the People in a social political compact. This social political compact is called a constitution and it is the will of the people regarding the lawful authority granted to the government for the protection of the People’s property and rights.



**Figure 4. The United States of America—a Nation Like No Other**

1 The frequent misunderstandings about what exactly is meant by the term “United States” has already been  
 2 addressed in 1945 by the Supreme Court of the United States (“SCOTUS”) in a tax dispute.

3  
 4 *"The term 'United States' may be used in any one of several senses. It may be merely the name of*  
 5 *a sovereign occupying the position analogous to that of other sovereigns in the family of nations.*  
 6 *It may designate the territory over which the sovereignty of the United States extends, or it may be*  
 7 *the collective name of the states which are united by and under the Constitution."*

8  
 9 *Hooven & Allison Co. v. Evatt, 324 U.S. 652, (1945)*

10  
 11 There are four meanings addressed in the *Hooven & Allison Co.* ruling, and they are designated utilizing  
 12 the following convention for the purposes of this memorandum:

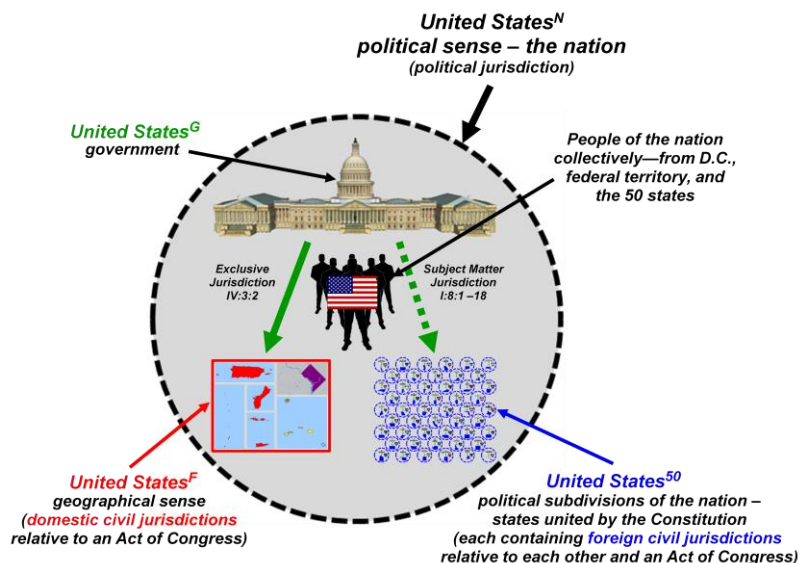
13  
 14 **United States<sup>N</sup>** – *The United States of America – the nation (national body politic)*

15 **United States<sup>F</sup>** – *D.C., Federal Territory and possessions – (a collective geographical entity)*

16 **United States<sup>50</sup>** – *The fifty states – (fifty political subdivisions of the national body politic)*

17 **United States<sup>G</sup>** – *The federal government – (a corporate-governmental entity)*

18



19

20

21 **Figure 5. The Several Meanings of “United States” Illustrated**

22

23 The term “United States” addressed by the SCOTUS above, can frequently have uniquely different  
 24 meanings ascribed to it. In particular, it is important to regard context by determining who is addressing  
 25 the term “United States” and how. In the Constitution of the United States, it is the terms **United States<sup>N</sup>**  
 26 and **United States<sup>50</sup>** which are most frequently addressed. In federal legislation, it is generally **United**  
 27 **States<sup>G</sup>** and **United States<sup>F</sup>** which are most frequently addressed. The former meanings deal with bodies  
 28 politic such as the nation or the collective fifty states and the social political compact to which they  
 29 relate—the United States Constitution. The latter addresses that which the government directly legislates  
 30 for within the nation—namely, itself and the territory over which its exclusive sovereignty extends. The  
 31 federal government does not legislate for the fifty states—but they do exercise subject matter jurisdiction  
 32 within state civil jurisdictions in specified and enumerated instances.

1  
2 ***"It is no longer open to question that the general government, unlike the states, Hammer v.***  
3 ***Degenhart, 247 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no***  
4 ***inherent power in respect of the internal affairs of the states; and emphatically not with regard***  
5 ***to legislation.*** *The question in respect of the inherent power of that government as to the external*  
6 *affairs of the Nation and in the field of international law is a wholly different matter which it is not*  
7 *necessary now to consider." **[emphasis added]***

8  
9 *Carter v. Carter Coal Co., 298 U.S. 238 (1936)*

10  
11 Because the Federal government has not been granted legislative authority within the civil jurisdiction of  
12 the fifty states not ceded pursuant to art. I, § 8, cl. 17, each of the fifty states in their geographical sense  
13 are not addressed in federal legislation. In the sovereign capacity the Federal government exercises over  
14 its territory and other property pursuant to art. IV, § 3, cl. 2, the Federal government has elected to refer to  
15 territory and other property under their legislative sovereignty as a political "State." The Federal  
16 government, as the appointed sovereign over their own subject matter and territory obtained through  
17 treaty or conquest, has every justification to style its laws utilizing any language it so chooses. It is  
18 incumbent on the reader to understand if the legislation being regarded is over all states in the American  
19 Union when subject matter jurisdiction is at issue, or if the legislation is over the federal "States" in  
20 instances of plenary jurisdiction pursuant to art. IV, § 3, cl. 2.

21  
22 In instances of plenary jurisdiction, the collective civil jurisdiction of the Federal government is  
23 sometimes referred to in a geographical sense as the "District of Columbia and the States." This  
24 definition generally transmits to the unwary an image of the District of Columbia and the collective fifty  
25 civil jurisdictions of the fifty states—not the collective geographical civil jurisdiction comprised of the  
26 District of Columbia, Federal Territory, and possessions. A nation is not a geographical entity, but a  
27 political entity. A geographical entity describes a particular civil jurisdiction within an encompassing  
28 body politic. Congress does not possess the authority to legislate over the internal affairs of the fifty  
29 states except in instances when the state ceded geography within to the Federal government pursuant to  
30 art. I, § 8, cl. 17, or in other areas of subject matter jurisdiction pursuant to art. I, § 8.

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## Political Citizenship

In 1874, the SCOTUS addressed political citizenship and what it means to be a member of a nation's political community in *Minor v. Happersett*.

***"There cannot be a nation without a people. The very idea of a political community, such as a nation is, implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. He owes it allegiance and is entitled to its protection. Allegiance and protection are, in this connection, reciprocal obligations. The one is a compensation for the other; allegiance for protection and protection for allegiance."*** [emphasis added]

*Minor v. Happersett, 88 U.S. 162 (1874)*

Title 8 of the United States Code is entitled *Aliens and Nationality*. This title addresses the various statuses of both American and foreign nationals. It is 8 U.S.C. § 1101(a)(21) which defines the legal meaning of the term "national."

### **§ 1101. Definitions**

(a) As used in this chapter—

(21) The term "national" means a person owing permanent **allegiance** to a state. [emphasis added]

The definition above reveals that a "national" of a particular nation-state owes allegiance to that nation-state. Black's Law Dictionary offers the following definition of "nationality."

**nationality** – The relationship between a citizen of a nation and the nation itself, customarily involving **allegiance by the citizen and protection by the state; membership in a nation. This term is often used synonymously with citizenship.** [emphasis added]

*Black's Law Dictionary, 8<sup>th</sup> Edition 2004*

Title 8 goes on to define the legal term "passport" in 8 U.S.C. § 1101(a)(30).

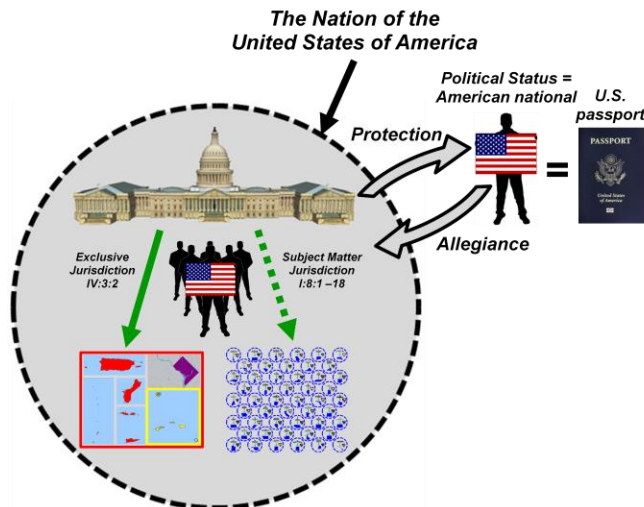
### **§ 1101. Definitions**

(a) As used in this chapter—

(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and **nationality** if any, which is valid for the admission of the bearer into a foreign country. [emphasis added]

A passport is, therefore, a political document which identifies the bearer as possessing "nationality" and the political status of "national" in association with the issuing nation. A passport is therefore evidence of one's identity and political status or, nationality. A "national" of a nation tenders allegiance for protection, and receives protection for allegiance. Most plainly stated—a passport identifies an individual as belonging to a nation.





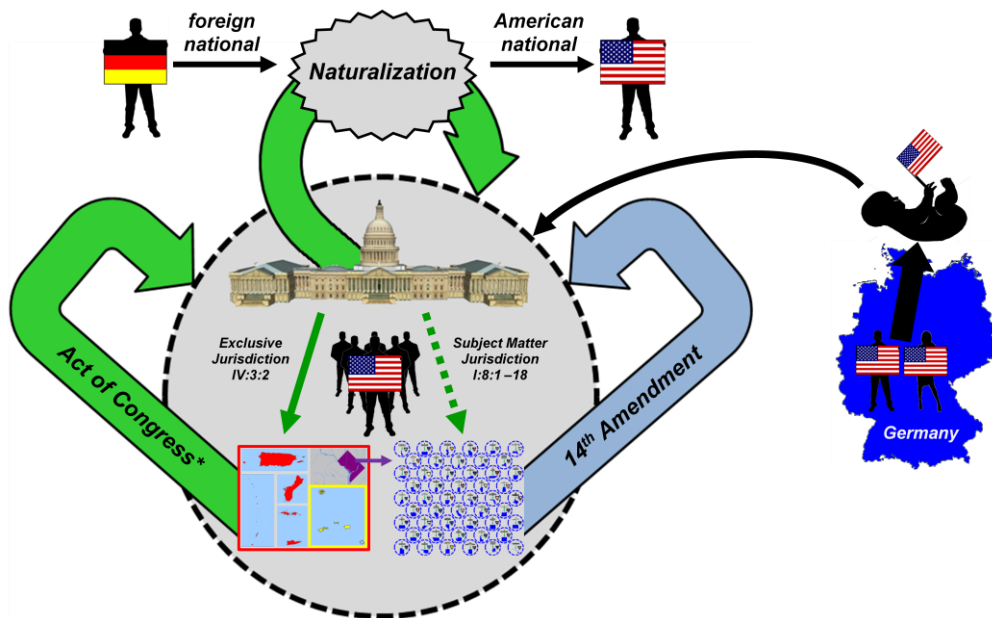
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**Figure 6. A Passport and Allegiance are Evidence of Political Citizenship—Nationality**

As stated in the aforementioned Black’s Law Dictionary definition of “nationality,” that term is often used synonymously with the term “citizenship.” Black’s Law Dictionary offers the following definition of “citizenship,” which addresses the four methods through which one becomes a member of a nation.

***citizenship – The status of being a citizen.*** *There are four ways to acquire citizenship: by birth in the United States, by Birth in U.S. territories, by birth outside the U.S. to U.S. parents, and by naturalization. [emphasis added]*

*Black's Law Dictionary, 6<sup>th</sup> Edition 1990*



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\* Inhabitants of American Samoa as well as certain domiciliaries of the CNMI are non-citizen nationals

**Figure 7. Methods of Obtaining Political Citizenship—Nationality**

1 The Black’s “citizenship” definition above utilizes the term “United States” in the first method by which  
 2 “citizenship” is obtained—that is, by birth in the “United States,” and secondly, by birth in U.S.  
 3 territories. However, since U.S. territories are within *United States*<sup>N</sup> as revealed in *Figure 7* and others,  
 4 the “United States” referred to in the first method can only be the *United States*<sup>50</sup> —that is, the fifty states  
 5 united by and under the Constitution, and the method by which political citizenship is commuted  
 6 therein—the Fourteenth Amendment. It therefore becomes plainly obvious that the term “United States”  
 7 takes on different meanings even within the context of political citizenship itself. The four methods of  
 8 obtaining political citizenship are more completely explained below.

9  
 10 *1. By Birth in the United States*<sup>50</sup> *Through the Mechanism of the Fourteenth Amendment*

11  
 12 Nationality in the *United States*<sup>N</sup> is commuted to State Citizens by the “citizenship clause” of the  
 13 Fourteenth Amendment, which states:

14  
 15 *“Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction*  
 16 *thereof, are citizens of the United States and of the State wherein they reside.”*

17  
 18 *U.S. Const. Am. 14, § 1, cl. 1*

19  
 20 The “citizenship clause” of the Fourteenth Amendment provides the mechanism through which  
 21 nationality and political status is commuted for State Citizens under the Constitution. No mechanism  
 22 existed in the original Constitution through which nationality and political status could be effectuated.  
 23 The “citizenship clause” of the Fourteenth Amendment accomplished this. The need for the Fourteenth  
 24 Amendment was addressed by Congress openly during the floor debates prior to its ratification.

25  
 26 *“The Constitution as it now stands recognizes a citizenship of the United States. It provides that no*  
 27 *person shall be eligible to the Presidency of the United States except a natural-born citizen of the*  
 28 *United States or one who was in the United States at the time of the adoption of the Constitution;*  
 29 *it provides that no person shall be eligible to the office of Senator who has not been a citizen of*  
 30 *the United States for nine years; but there is no definition in the Constitution as it now stands as*  
 31 *to citizenship. Who is a citizen of the United States is an open question. The decision of the*  
 32 *courts and the doctrine of the commentators is, that every man who is a citizen of a State*  
 33 *becomes ipso facto a citizen of the United States; but there is no definition as to how citizenship*  
 34 *can exist in the United States except through the medium of a citizenship in a State. Now, all*  
 35 *that this amendment provides is, that all persons born in the United States and not subject to*  
 36 *some foreign Power — for that, no doubt, is the meaning of the committee who have brought*  
 37 *the matter before us — shall be considered as citizens of the United States.* *That would seem to*  
 38 *be not only a wise but a necessary provision. If there are to be citizens of the United States entitled*  
 39 *everywhere to the character of citizens of the United States there should be some certain definition*  
 40 *of what citizenship is, what has created the character of citizen as between himself and the United*  
 41 *States, and the amendment says that citizenship may depend upon birth, and I know of no better*  
 42 *way to give rise to citizenship than the fact of birth within the territory of the United States, born*  
 43 *of parents who at the time were subject to the authority of the United States. I am, however, by no*  
 44 *means prepared to say, as I think I have intimated before, that being born within the United*  
 45 *States, independent of any new constitutional provision on the subject, creates the relation of*  
 46 *citizen to the United States.”* *[emphasis added]*

47  
 48 *Hon. Reverdy Johnson, Whig Dem. Senator, Maryland*  
 49 *Congressional Debates of the Fourteenth Amendment to the United States Constitution*  
 50 *Cong. Globe, 39th Cong., 1st Sess. 2893 (1866)*

1 There is often additional confusion manifest by the Fourteenth Amendment with regard to the language,  
 2 “...and subject to the jurisdiction thereof,” implying that those born in one of the *United States*<sup>50</sup> and  
 3 thus citizens of the *United States*<sup>N</sup> by the Fourteenth Amendment are in some respect or degree subject to  
 4 the legislative jurisdiction of the *United States*<sup>G</sup> in the same manner as those in the *United States*<sup>F</sup>. The  
 5 Supreme Court addressed this confusion in another landmark citizenship case—*Elk v. Wilkins*, 112 U.S.  
 6 94 (1884).

7  
 8 *“The persons declared to be citizens are ‘all persons born or naturalized in the United States, and*  
 9 *subject to the jurisdiction thereof.’ **The evident meaning of these last words is, not merely subject***  
 10 ***in some respect or degree to the jurisdiction of the United States, but completely subject to their***  
 11 ***political jurisdiction, and owing them direct and immediate allegiance.** And the words relate to*  
 12 *the time of birth in the one case, as they do to the time of naturalization in the other. Persons not*  
 13 *thus subject to the jurisdiction of the United States at the time of birth cannot become so*  
 14 *afterwards, except by being naturalized, either individually, as by proceedings under the*  
 15 *naturalization acts; or collectively, as by the force of a treaty by which foreign territory is*  
 16 *acquired.” [emphasis added]*

17  
 18 *Elk v. Wilkins, 112 U.S. 94 (1884)*

19  
 20 There is in fact nothing sinister about the “citizenship clause” of the Fourteenth Amendment—as many  
 21 believe. It is simply a mechanism within the Constitution that commutes nationality and political status  
 22 through birth or naturalization, the result of which is the direct and immediate owing of allegiance to the  
 23 nation of the *United States*<sup>N</sup>. The incorrect notions that abound with regard to the Fourteenth  
 24 Amendment by so-called “sovereign citizens” stem from an incorrect premise that political and civil  
 25 jurisdiction are one-in-the-same. The two issues are mutually exclusive as the SCOTUS clearly stated.

26  
 27 The Supreme Court also addressed the Fourteenth Amendment and what it accomplished with regards to  
 28 political citizenship forthrightly in the Slaughter-House Cases, but in the process revealed the disparate  
 29 difference between the *United States*<sup>50</sup> and *United States*<sup>F</sup>. Although the District of Columbia is a federal  
 30 area within the *United States*<sup>50</sup>, it is separate from the fifty states, and thus part of the *United States*<sup>F</sup>.

31  
 32 *“The first section of the fourteenth article, to which our attention is more specially invited, opens*  
 33 *with a definition of citizenship—not only citizenship of the United States, but citizenship of the*  
 34 *States. No such definition was previously found in the Constitution, nor had any attempt been*  
 35 *made to define it by act of Congress. It had been the occasion of much discussion in the courts, by*  
 36 *the executive departments, and in the public journals. **It had been said by eminent judges that no***  
 37 ***man was a citizen of the United States, except as he was a citizen of one of the States composing***  
 38 ***the Union. Those, therefore, who had been born and resided always in the District of Columbia***  
 39 ***or in the Territories, though within the United States, were not citizens.**” [emphasis added]*

40  
 41 *Slaughter-House Cases, 83 U.S. 36 (1872)*

42  
 43 Revealed in the above ruling is the fact that the Fourteenth Amendment itself interfaces only with State  
 44 Citizens of *United States*<sup>50</sup>, as they are the authoring sovereigns and moving party of the social political  
 45 compact between the People of the sovereign States and the Federal government. The District of  
 46 Columbia and Federal territories (*United States*<sup>F</sup>) are incidental within the Constitution by virtue of the  
 47 appointed legislative sovereignty of the *United States*<sup>G</sup> over them by the people of *United States*<sup>50</sup>. The  
 48 federal “States,” the geography of which make up the *United States*<sup>F</sup>, do not interface the Constitution  
 49 directly, but only insofar as Congress directs through legislation.

1 “Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in  
 2 our system, while sovereign powers are delegated to the agencies of government, sovereignty  
 3 itself remains with the people, by whom and for whom all government exists and acts. And the  
 4 law is the definition and limitation of power.” [emphasis added]

5  
 6 *Yick Wo v. Hopkins*, 118 U.S. 356 (1886)

7  
 8  
 9 “Indeed, the practical interpretation put by Congress upon the Constitution has been long  
 10 continued and uniform to the effect that the Constitution is applicable to territories acquired by  
 11 purchase or conquest, only when and so far as Congress shall so direct. Notwithstanding its  
 12 duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by  
 13 which we understand, according to the definition of Webster, 'a government in which the  
 14 supreme power resides in the whole body of the people, and is exercised by representatives  
 15 electd by them,' Congress did not hesitate, in the original organization of the territories of  
 16 Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan,  
 17 Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of  
 18 government bearing a much greater analogy to a British Crown colony than a republican state  
 19 of America, and to vest the legislative power either in a governor and council, or a governor and  
 20 judges, to be appointed by the President. It was not until they had attained a certain population  
 21 that power was given them to organize a legislature by vote of the people. In all these cases, as  
 22 well as in territories subsequently organized west of the Mississippi, Congress thought it  
 23 necessary either to extend to Constitution and laws of the United States over them, or to declare  
 24 that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the  
 25 privilege of the writ of habeas corpus, as well as other privileges of the bill of rights.” [emphasis  
 26 added]

27  
 28 *Downes v. Bidwell*, 182 U.S. 244 (1901)

29  
 30 The clear and disparate difference between the legal characterizations of *United States*<sup>50</sup> and *United*  
 31 *States*<sup>F</sup> and the implications of that difference addressed in the *Downes v. Bidwell* court was the basis for  
 32 what were collectively to be known as the *Insular Cases* – a series of Supreme Court rulings which dealt  
 33 with the question, “Does the Constitution follow the flag?” Regarding that matter, the *Downes v. Bidwell*  
 34 court also stated the following:

35  
 36 “The earliest case is that of *Hepburn v. Ellzey*, 2 Cranch, 445, 2 L. ed. 332, in which this court  
 37 held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United  
 38 States to controversies between citizens of different states, a citizen of the District of Columbia  
 39 could not maintain an action in the circuit court of the United States. It was argued that the word  
 40 'state.' in that connection, was used simply to denote a distinct political society. 'But,' said the  
 41 Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as  
 42 used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the  
 43 sense of that instrument. The result of that examination is a conviction that the members of the  
 44 American confederacy only are the states contemplated in the Constitution, . . . and excludes  
 45 from the term the signification attached to it by writers on the law of nations.' This case was  
 46 followed in *Barney v. Baltimore*, 6 Wall. 280, 18 L. ed. 825, and quite recently in *Hooe v.*  
 47 *Jamieson*, 166 U.S. 395, 41 L. ed. 1049, 17 Sup. Ct. Rep. 596. The same rule was applied to  
 48 citizens of territories in *New Orleans v. Winter*, 1 Wheat. 91, 4 L. ed. 44, in which an attempt  
 49 was made to distinguish a territory from the District of Columbia. But it was said that 'neither  
 50 of them is a state in the sense in which that term is used in the Constitution.'” [emphasis added]

51  
 52 *Downes v. Bidwell*, 182 U.S. 244 (1901)

53

1 Because the *United States*<sup>F</sup> does not interface directly to the Constitution, the nationality and political  
 2 ‘citizenship’ of the inhabitants of the District of Columbia had to be effectuated by a “legal bridge”  
 3 through an Act of Congress. Because the District of Columbia is a federal area comprising land ceded to  
 4 the federal government by the state of Maryland pursuant to art. I, § 8, cl. 17, the District does in fact sit  
 5 upon land which was originally party to the Constitution. It is therefore afforded the protections of the  
 6 Constitution but only insofar as they are not locally inapplicable or inconsistent with that jurisdiction  
 7 functioning as the seat of the federal government.

8  
 9 *“This District had been a part of the states of Maryland and Virginia. It had been subject to the*  
 10 *Constitution, and was a part of the United States. **The Constitution had attached to it irrevocably.***  
 11 *There are steps which can never be taken backward. The tie that bound the states of Maryland and*  
 12 *Virginia to the Constitution could not be dissolved, without at least the consent of the Federal and*  
 13 *state governments to a formal separation. **The mere cession of the District of Columbia to the***  
 14 ***Federal government relinquished the authority of the states, but it did not take it out of the***  
 15 ***United States or from under the aegis of the Constitution.** Neither party had ever consented to*  
 16 *that construction of the cession. If, before the District was set off, Congress had passed an*  
 17 *unconstitutional act affecting its inhabitants, it would have been void.” [emphasis added]*

18  
 19 *Downes v. Bidwell, 182 U.S. 244 (1901)*

20  
 21 But the fact remains, the District of Columbia cannot reach the Fourteenth Amendment even though the  
 22 federal area is located within the state of Maryland. The District was ceded to the exclusive legislative  
 23 jurisdiction of the Federal government and Congress. Thus, *United States*<sup>N</sup> political citizenship  
 24 (American nationality) as well as the other provisions of the Fourteenth Amendment were commuted to  
 25 the inhabitants of the District of Columbia through the Organic Act of 1871 (16 Stat. 419), Sec. 34. This  
 26 Act of Congress allowed the District of Columbia to access the Fourteenth Amendment of the  
 27 Constitution in full by identifying that constitutional provision as “not locally inapplicable.”

28  
 29 *“Sec. 34. ‘... and the Constitution and all the laws of the United States, **which are not locally***  
 30 ***inapplicable,** shall have the same force and effect within the said District of Columbia as*  
 31 *elsewhere within the United States.’”[emphasis added]*

32  
 33  
 34 **2. By Birth in U.S. territories through the Mechanism of the “citizenship clause” of the Fourteenth**  
 35 **Amendment Extended ex proprio vigore through an Act of Congress**

36  
 37 U.S. territories are not States within the meaning of the Constitution in precisely the same way the  
 38 District of Columbia is not. However, unlike the District of Columbia, no inherent connection to the  
 39 Constitution exists for U.S. territories unless extended to them through an Act of Congress. The  
 40 following Acts of Congress extended *ex proprio vigore* (by its own force) the “citizenship clause” of the  
 41 Fourteenth Amendment to the inhabitants of the respective U.S. territories.

42  
 43 **Puerto Rico** – United States political citizenship (American nationality) commuted to the inhabitants of  
 44 Puerto Rico through the Jones – Shafroth Act of 1917 (39 Stat. 951), Sec. 5.

45  
 46 *“Sec. 5. That all citizens of Porto Rico, as defined by section seven of the Act of April twelfth,*  
 47 *nineteen hundred, “temporarily to provide revenues and a civil government for Porto Rico, and*  
 48 *for other purposes,” and all natives of Porto Rico who were temporarily absent from that island*



1           on April eleventh, eighteen hundred and ninety-nine, and have since returned and are permanently  
2           residing in that island, and are not citizens of any foreign country, **are hereby declared, and shall**  
3           **be deemed and held to be, citizens of the United States.**” [emphasis added]  
4

5   **U.S. Virgin Islands** – United States political citizenship (American nationality) commuted to the  
6   inhabitants of the Virgin Islands through the Organic Act of the Virgin Islands of 1927 (44 Stat. 1234),  
7   Sec. 3.

8  
9           “SEC. 3. All persons born in the Virgin Islands of the United States on or after January 17, 1917  
10          (whether before or after the effective date of this Act), and subject to the jurisdiction of the United  
11          States, **are hereby declared to be citizens of the United States.**” [emphasis added]  
12

13   **Guam** – United States political citizenship (American nationality) commuted to the inhabitants of Guam  
14   through the Guam Organic Act of 1950 (64 Stat. 384), Sec. 4.

15  
16          “SEC. 4. (a) Chapter II of the Nationality Act of 1940, as amended, is hereby further amended by  
17          adding at the end thereof the following new section: ‘SEC. 206. (a) The following persons, and  
18          their children born after April 11, 1899, **are hereby declared to be citizens of the United States,** if  
19          they are residing on the date of enactment of this section on the island of Guam or other territory  
20          over which the United States exercises rights of sovereignty.’” [emphasis added]  
21

22   **Commonwealth of the Northern Mariana Islands** – United States political citizenship (American  
23   nationality) commuted to the domiciliaries of the CNMI through Presidential Proclamation 5564,  
24   amending the Compact of Free Association Act of 1986 (99 Stat. 1770), Sec. 2.

25  
26          “Sec. 2. (a) Sections 101, 104, 301, 302, 303, 506, 806, and 904 of the Covenant are effective as  
27          of 12:01 a.m., November 4, 1986, Northern Mariana Islands local time.  
28          (b) The Commonwealth of the Northern Mariana Islands in political union with and under the  
29          sovereignty of the United States of America is fully established on the date and at the time  
30          specified in Section 2(a) of this Proclamation.  
31          (c) **The domiciliaries of the Northern Mariana Islands are citizens of the United States to the**  
32          **extent provided for in Sections 301 through 303 of the Covenant on the date and at the time**  
33          **specified in this Proclamation.**  
34          (d) I welcome the Commonwealth of the Northern Mariana Islands into the American family and  
35          congratulate our new fellow citizens.” [emphasis added]  
36

37   However, Section 302 of this same covenant gives certain inhabitants of the CNMI the ability to adopt a  
38   status of “national but not a citizen of the United States” pursuant to 8 U.S.C. § 1408 similarly to those  
39   from American Samoa and Swains Island (elaboration to follow).

40  
41          **Section 302.** Any person who becomes a citizen of the United States solely by virtue of the  
42          provisions of Section 301 may within six months after the effective date of that Section or within  
43          six months after reaching the age of 18 years, whichever date is the later, **become a national but**  
44          **not a citizen of the United States** by making a declaration under oath before any court established  
45          by the Constitution or laws of the United States or any court of record in the Commonwealth in  
46          the form as follows:

47          “I \_\_\_\_\_ being duly sworn, hereby declare my intention to be a national but not a  
48          citizen of the United States.”  
49

50   The above Acts of Congress, and in the case of the CNMI, a Presidential Proclamation amending an Act  
51   of Congress, extended *ex proprio vigore* the “citizenship clause” of the Fourteenth Amendment to certain

1 inhabitants of *United States<sup>F</sup>*, thereby commuting political citizenship in the *United States<sup>N</sup>*. Some  
 2 members of the CNMI may elect to be characterized as a “national but not a citizen of the United States”  
 3 in lieu of a being characterized as a “United States citizen.”  
 4

5 American Samoa and Swains Island are unincorporated and unorganized territories within *United States<sup>N</sup>*,  
 6 and as such, they fall under the legislative sovereignty of the *United States<sup>G</sup>*. American Samoa and  
 7 Swains Island have never been organized under an organic Act of Congress. Additionally, the  
 8 “citizenship clause” has not been extended to their inhabitants through an Act of Congress. This does not  
 9 mean the inhabitants of these islands are not American nationals – they are. Their nationality is also  
 10 extended *ex proprio vigore* through an Act of Congress, but not through the “citizenship clause” extended  
 11 through an organic act. Nationality is commuted to the inhabitants of American Samoa and Swains Island  
 12 through a custom-made provision provided under the Immigration and Nationality Act of 1952.

13  
 14 **American Samoa and Swains Island** – American nationality commuted to the citizens of the outlying  
 15 possessions of the United States through the Immigration and Nationality Act of 1952 (66 Stat. 163), Sec.  
 16 308.

17  
 18 *“Sec. 308. Unless otherwise provided in section 301 of this title, **the following shall be nationals,***  
 19 ***but not citizens of the United States at birth:***  
 20 *(1) **A person born in an outlying possession of the United States** on or after the date of formal*  
 21 *acquisition of such possession; [**emphasis added**]*  
 22

23 The meaning behind the term “outlying possessions of the United States” is defined in 8 U.S.C. §  
 24 1101(a)(29)

25  
 26 **§ 1101. Definitions**

27 (a) As used in this chapter—

28  
 29 (29) The term “outlying possessions of the United States” means American  
 30 Samoa and Swains Island.  
 31

32 American Samoans, Swains Islanders, and certain domiciliaries of the CNMI are regarded as American  
 33 nationals, but that political status is not achieved through the “citizenship clause,” but rather through  
 34 Section 308 of the Immigration and Nationality Act of 1952. For this reason, such an individual is  
 35 referred to as a “national but not citizen of the United States” pursuant to 8 U.S.C. § 1408.  
 36

37 By virtue of the above provision, Title 22 reveals that one need not be a “United States citizen” to be  
 38 eligible for a U.S. passport. Recall that pursuant to 8 U.S.C. § 1101(a)(30), a passport is evidence of  
 39 nationality. Nationality and allegiance are the prerequisites for obtaining a passport, thus American  
 40 Samoans, Swains Islanders, and some domiciliaries of the CNMI, though not United States citizens, are  
 41 still American nationals and eligible for a U.S. passport. Title 22, Section 212 states the following:  
 42

43 ***§ 212. Persons entitled to passport*** *No passport shall be granted or issued to or verified for any*  
 44 ***other persons than those owing allegiance, whether citizens or not, to the United States.***  
 45

46 Those from American Samoa, Swains Island, and certain elected members of the CNMI, are members of  
 47 the American political community, but not by virtue of the “citizenship clause.”



### 1 3. By Birth outside the U.S. to U.S. Parents

2  
3 A child born abroad to U.S. parents is afforded the nationality of one or both parents under the doctrine of  
4 *jus sanguinis*.

5  
6 *U.S. citizenship may be acquired either at birth or through naturalization subsequent to birth. U.S.*  
7 *laws governing the acquisition of citizenship at birth embody two legal principles:*

8  
9 (1) ***Jus soli*** (the law of the soil) - a rule of common law under which the place of a person's birth  
10 determines citizenship. In addition to common law, this principle is embodied in the 14th  
11 Amendment to  
12 the U.S. Constitution and the various U.S. citizenship and nationality statutes.

13  
14 (2) ***Jus sanguinis*** (the law of the bloodline) - a concept of Roman or civil law under which a  
15 person's citizenship is determined by the citizenship of one or both parents. **This rule, frequently**  
16 **called "citizenship by descent" or "derivative citizenship", is not embodied in the U.S.**  
17 **Constitution, but such citizenship is granted through statute.** As U.S. laws have changed, the  
18 requirements for conferring and retaining derivative citizenship have also changed. [**emphasis**  
19 **added**]

20  
21 *U.S. Department of State Foreign Affairs Manual Volume 7 – Consular Affairs*

### 22 23 4. By Naturalization

24  
25 Foreign nationals obtain political 'citizenship' through the process of naturalization imputed through the  
26 mechanism of the "citizenship clause" of the Fourteenth Amendment, and the swearing of an oath of  
27 allegiance to the ***United States***<sup>N</sup>.

#### 28 29 **§ 1101. Definitions**

30 (a) *As used in this chapter*

31  
32 (23) The term "naturalization" means the conferring of ***nationality*** of a state  
33 upon a person after birth, by any means whatsoever. [**emphasis added**]

34  
35 Foreign nationals naturalized anywhere within the ***United States***<sup>N</sup>, although obtaining constitutional  
36 citizenship and statutory nationality through an Act of Congress, are afforded full constitutional  
37 protections so long as State Citizenship within ***United States***<sup>50</sup> is maintained.

38  
39 "The power of naturalization, vested in congress by the constitution, is a power to confer  
40 citizenship, not a power to take it away. **'A naturalized citizen,' said Chief Justice Marshall,**  
41 **'becomes a member of the society, possessing all the rights of a native citizen, and standing, in**  
42 **the view of the constitution, on the footing of a native. The constitution does not authorize**  
43 **congress to enlarge or abridge those rights.** The simple power of the national legislature is to  
44 prescribe a uniform rule of naturalization, and the exercise of this power exhausts it, so far as  
45 respects the individual." [**emphasis added**]

46  
47 *U.S. v. Wong Kim Ark, 169 U.S. 649 (1898)*

## Civil Citizenship

Before addressing what exactly civil citizenship is, precedent must be established for its existence and its differentiation from that of political citizenship. The SCOTUS has stated the following:

**“In the constitution and laws of the United States the word ‘citizen’ is generally, if not always, used in a political sense, to designate one who has the rights and privileges of a citizen of a state or of the United States. It is so used in section 1 of article 14 of the amendments of the constitution, which provides that ‘all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,’ and that ‘no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.’ But it is also sometimes used in popular language to indicate the same thing as resident, inhabitant, or person.” [emphasis added]**

*Baldwin v. Franks, 120 U.S. 678 (1887)*

**“The law of England, and of almost all civilized countries, ascribes to each individual at his birth two distinct legal states or conditions, -one by virtue of which he becomes the subject of some particular country, binding him by the tie of natural allegiance, and which may be called his political status; another by virtue of which he has ascribed to him the character of a citizen of some particular country, and as such is possessed of certain municipal rights, and subject to certain obligations, which latter character is the civil status or condition of the individual, and may be quite different from his political status.” [emphasis added]**

*U.S. v. Wong Kim Ark, 169 U.S. 649 (1898)*

In the above two landmark cases, the SCOTUS established precedent from which the subject of nationality or political status and civil status can be properly understood and applied in particular instances. In *Baldwin v. Franks*, the SCOTUS identifies the Fourteenth Amendment as the mechanism through which a citizen of a state body politic obtains political citizenship in the national body politic. *Baldwin v. Franks* additionally reveals alternative meanings to the term ‘citizen’ apart from its Fourteenth Amendment political sense as one being a resident, inhabitant, or person—residency and inhabitancy being functions of location—not affiliation with a particular body politic such as a state or nation. In *U.S. v. Wong Kim Ark*, the SCOTUS relates political status as allegiance to a nation, while differentiating civil status as an instance exclusive of political status but commuted through locality in a foreign civil jurisdiction. Locality is a question of geographical location—not nationality and political status.

*“It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the [political] status of the people who live in it.”*

*Balzac v. Porto Rico, 258 U.S. 298 (1922)*

If applicability of the Constitution is restricted to locality, then so too are federal laws when subject matter jurisdiction is not in question. Under the American system of federalism, political citizenship joins the people of the nation as one, but the Constitution keeps state citizens legislatively foreign to each other.

1 *“For all national purposes embraced by the federal constitution the states and the citizens*  
 2 *thereof are one*, united under the same sovereign authority, and governed by the same laws. *In all*  
 3 *other respects the states are necessarily foreign to and independent of each other*; their  
 4 constitutions and forms of government being, although republican, altogether different, as are  
 5 their laws and institutions.” *[emphasis added]*  
 6

7 *Hanley v. Donoghue, 116 U.S. 1 (1885)*  
 8

9 Civil status is determined through domicile and/or residence, while political status is determined through  
 10 nationality and allegiance to one’s country.

11  
 12 *“And then, while maintaining that the civil status is universally governed by the single principle*  
 13 *of domicile (domicilium)*, the criterion established by international law for the purpose of  
 14 determining civil status, and the basis on which 'the personal rights of the party-that is to say, the  
 15 law which determines his majority or minority, his marriage, succession, testacy, or intestacy-  
 16 must depend,' he yet distinctly recognized that *a man's political status, his country (patria), and*  
 17 *his 'nationality,-that is, natural allegiance,-'* 'may depend on different laws in different countries.'  
 18 Pages 457, 460. *He evidently used the word 'citizen,' not as equivalent to 'subject,' but rather to*  
 19 *'inhabitant';*” *[emphasis added]*  
 20

21 *U.S. v. Wong Kim Ark, 169 U.S. 649 (1898)*  
 22

23 Black’s Law Dictionary proffers the following definitions for domicile, elected domicile, and residence.

24  
 25 *domicile – A person's legal home.* *That place where a man has his true, fixed, and permanent*  
 26 *home and principal establishment, and to which whenever he is absent he has the intention of*  
 27 *returning.* *Smith v. Smith, 206 Pa.Super. 310m 213 A.2d 94.* *Generally, physical presence within*  
 28 *a state and the intention to make it one's home are the requisites of establishing a "domicile"*  
 29 *therein. The permanent residence of a person or the place to which he intends to return even*  
 30 *though he may actually reside elsewhere. A person may have more than one residence but only*  
 31 *one domicile. The legal domicile of a person is important since it, rather than the actual*  
 32 *residence, often controls the jurisdiction of the taxing authorities and determines where a*  
 33 *person may exercise the privilege of voting and other legal rights and privileges.* *The*  
 34 *established, fixed, permanent, or ordinary dwelling place or place of residence of a person, as*  
 35 *distinguished from his temporary and transient, though actual, place of residence. It is his*  
 36 *legal residence, as distinguished from his temporary place of abode; or his home, as*  
 37 *distinguished from a place to which business or pleasure may temporarily call him.* *See also*  
 38 *Abode; Residence. "Citizenship," "habitaney," and "residence" are severally words which in*  
 39 *particular cases may mean precisely the same as "domicile," while in other uses may have*  
 40 *different meanings.* *"Residence" signifies living in particular locality while "domicile" means*  
 41 *living in that locality with intent to make it a fixed and permanent home.* *Schreiner v. Schreiner,*  
 42 *Tex.Civ.App., 502 S.W.2d 840, 843.* *For purpose of federal diversity jurisdiction, "citizenship"*  
 43 *and "domicile" are synonymous.* *Hendry v. Masonite Corp., C.A.Miss., 455 F.2d 955.*  
 44 *[emphasis added]*  
 45

46 *Black’s Law Dictionary, 6<sup>th</sup> Edition 1990*  
 47

48  
 49 *Elected Domicile.* *The domicile of parties fixed in a contract between them for the purposes of*  
 50 *such contract.* *[emphasis added]*  
 51

52 *Black’s Law Dictionary, 6<sup>th</sup> Edition, 1990*  
 53  
 54

1 **Residence.** *Place where one actually lives or has his home; a person's dwelling place or place of*  
 2 *habitation; an abode; house where one's home is; a dwelling house. Perez v. Health and Social*  
 3 *Services, 91 N.M. 334, 573 P.2d 689, 692. Personal presence at some place of abode with no*  
 4 *present intention of definite and early removal and with purpose to remain for undetermined*  
 5 *period, not infrequently, but not necessarily combined with design to stay permanently. T.P.*  
 6 *Laboratories, Inc. v. Huge, D.C.Md., 197 F.Supp. 860, 865.*

7  
 8 **Residence implies something more than mere physical presence and something less than**  
 9 **domicile.** *Petition of Castrinakis, D.C.Md., 179 F.Supp. 444, 445. The terms "resident" and*  
 10 *"residence" have no precise legal meaning; sometimes they mean domicile plus physical*  
 11 *presence; sometimes they mean domicile; and sometimes they mean something less than domicile.*  
 12 *Willenbrock v. Rogers, C.A.Pa., 255 F.2d 236, 237. See also Abode; Domicile; Legal residence;*  
 13 *Principal residence.*

14  
 15 *"Domicile" compared and distinguished. **As "domicile" and "residence" are usually in the***  
 16 **same place, they are frequently used as if they had the same meaning, but they are not identical**  
 17 **terms, for a person may have two places of residence, as in the city and country, but only one**  
 18 **domicile.** *Residence means living in a particular locality, but domicile means living in that*  
 19 *locality with intent to make it a fixed and permanent home. Residence simply requires bodily*  
 20 *presence as an inhabitant in a given place, while domicile requires bodily presence in that place*  
 21 *and also an intention to make it one's domicile. Fuller v. Hofferbert, C.A.Ohio, 204 F.2d 592,*  
 22 *597. **"Residence" is not synonymous with "domicile," though the two terms are closely related;***  
 23 **a person may have only one legal domicile at one time, but he may have more than one**  
 24 **residence.** *Fielding v. Casualty Reciprocal Exchange, La.App., 331 So.2d 186, 188.*

25  
 26 *In certain contexts the courts consider "residence" and "domicile" to be synonymous (e.g.*  
 27 *divorce action, Cooper v. Cooper, 269 Cal.App.2d 6, 74 Cal.Rptr. 439, 441); **while in others the***  
 28 **two terms are distinguished** *(e.g. venue, Fromkin v. Loehmann's Hewlett, Inc. 16 Misc.2d 117,*  
 29 *184 N.Y.S.2d 63, 65). [emphasis added]*

30  
 31 *Black's Law Dictionary, 6<sup>th</sup> Edition, 1990*

32  
 33 Some notable conclusions by the above legal definitions can be encapsulated as follows:

- 34  
 35 1. Domicile and Residence are questions of **geographical location**—not nationality.  
 36 2. Domicile and Residence are **similar, but not identical** in meaning.  
 37 3. **Domicile and citizenship are synonymous** according to the federal judiciary.  
 38 4. Domicile is a place one **intends** to make a fixed and permanent legal home.  
 39 5. Domicile **may be elected** for the purposes of certain contracts (i.e. Social Security/tax status).  
 40 6. Physical domicile **may be different** from an elected domicile for certain contractual purposes.

41  
 42 Civil status is based on domicile and/or residence and is therefore established relevant to a civil  
 43 jurisdiction which is defined geographically. It has been established by the SCOTUS that the  
 44 applicability of the United States Constitution is based on locality and not nationality (See *Balzac v. Porto*  
 45 *Rico*). If the applicability of the Constitution is locally limited then so too is federal civil status. It has  
 46 been further established by the SCOTUS that the federal government has no authority to legislate over the  
 47 internal affairs of the fifty states (See *Carter v. Carter Coal Co.*). The question then becomes, 'Where  
 48 can the federal government legislate?' The Constitution of the United States provides the answer.

49  
 50 *"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten*  
 51 *Miles square) as may, by Cession of particular States, and the acceptance of Congress, become*  
 52 *the Seat of the Government of the United States, and to exercise like Authority over all Places*

1 *purchased by the Consent of the Legislature of the State in which the Same shall be, for the*  
 2 *Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;”*  
 3

4 *U.S. Const. Art. I, § 8, cl. 17*  
 5

6  
 7 *“The Congress shall have Power to dispose of and make all needful Rules and Regulations*  
 8 *respecting the Territory or other Property belonging to the United States; and nothing in this*  
 9 *Constitution shall be so construed as to Prejudice any Claims of the United States, or of any*  
 10 *particular State.”*  
 11

12 *U.S. Const. Art. IV, § 3, cl. 2*  
 13

14 The civil jurisdiction where an Act of Congress is locally applicable is therefore a collective geographical  
 15 region comprising the District of Columbia, Federal Territory, and other property such as unincorporated  
 16 territory and outlying possessions of the United States. The SCOTUS referred to this collective  
 17 geographical entity as “*the territory over which the sovereignty of the United States extends,*” in *Hooven*  
 18 *& Allison Co. v. Evatt* and which is referred to in this memorandum as **United States<sup>F</sup>**.  
 19

20 Title 26 of the United States Code (the IRC) addresses the federal income tax. The term “United States”  
 21 is defined at 26 U.S.C. § 7701(a)(9), and in its geographical sense defines the **United States<sup>F</sup>**—the  
 22 collective civil jurisdictions where an Act of Congress is locally applicable.  
 23

24 **§ 7701. Definitions**  
 25

26 *(a) When used in this title, where not otherwise distinctly expressed or manifestly*  
 27 *incompatible with the intent thereof—*  
 28

29 **(9) United States**

30 *The term “United States” when used in a **geographical sense** includes only the*  
 31 ***States and the District of Columbia.** [**emphasis added**].*  
 32

33 The term “State” does not also include each of the fifty states because the above definition is used within  
 34 the IRC to establish a civil status for the purposes of the federal income tax. Furthermore, the term  
 35 “State” as used within 26 U.S.C. § 7701(a)(9) is defined at 4 U.S.C. § 110(d).  
 36

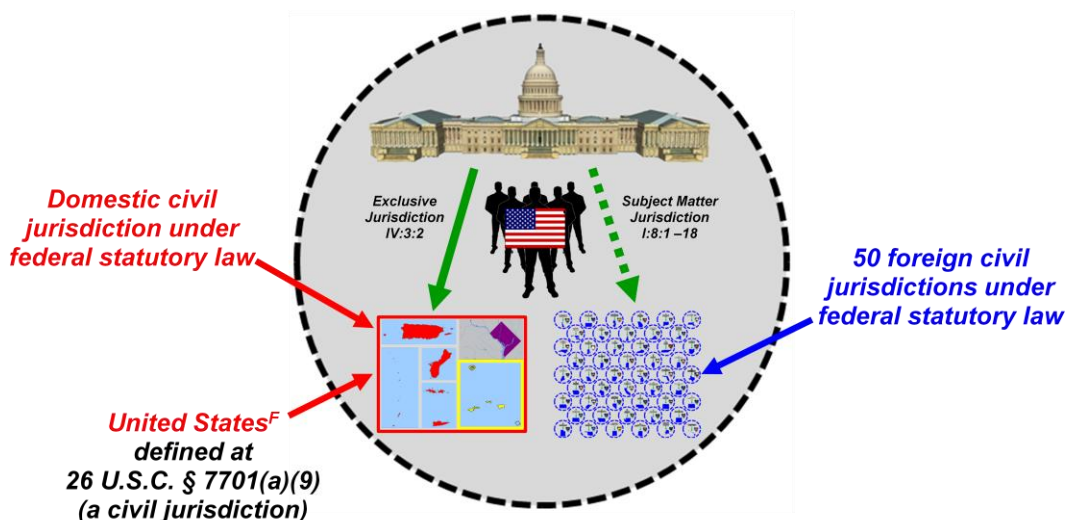
37 **§ 110. Same; definitions**  
 38

39 *As used in sections 105–109 of this title—*  
 40

41 *(d) The term “State” includes any Territory or possession of the United States.*  
 42

43 Sections 105 and 106 address taxation in federal areas and the income tax respectively. For this reason,  
 44 the 4 U.S.C. § 110(d) definition of “State” is what is collectively referred to as “States” in 26 U.S.C. §  
 45 7701(a)(9). The 26 U.S.C. § 7701(a)(9) definition of “United States” when regarded in its geographical  
 46 sense simply defines a civil jurisdiction within the nation from which a relevant tax status is determined.  
 47 Nowhere in the IRC are the fifty states defined individually in their geographical sense, thus they are not  
 48 other things otherwise within the meaning of the geographical “United States” of 26 U.S.C. § 7701(a)(9)  
 49 so defined. This is not to say the federal income tax only applies in the geographical “United States” of  
 50 26 U.S.C. § 7701(a)(9), as everyone, anywhere is potentially subject to the federal income tax. The

1 geographical “United States” is simply the jurisdiction from which a relevant civil tax status is  
 2 determined. Civil status for the purposes of the federal income tax is determined by a relevant domicile  
 3 and/or residence within the “United States” of 26 U.S.C. § 7701(a)(9)—the *United States<sup>F</sup>*.  
 4



5  
 6  
 7 **Figure 8. The United States of 26 U.S.C. § 7701(a)(9) is a Geographical Jurisdiction from which**  
 8 **Federal Civil Status for the Purposes of the Federal Income Tax is Established**  
 9

10 Since civil status is based on domicile, and domicile is synonymous with citizenship, an inquiry into how  
 11 one would like to establish a federal civil status for the purposes of the federal income tax could be  
 12 worded in one of several ways:

13  
 14 1. Would you like to declare your domicile to be in the collective civil jurisdiction comprising  
 15 the District of Columbia, Puerto Rico, Guam, the USVI, the CNMI, or American Samoa?

16  
 17 or;

18  
 19 2. Are you a “citizen” (domicile in a civil sense) of the collective civil jurisdiction comprising  
 20 the District of Columbia, Puerto Rico, Guam, the USVI, the CNMI, or American Samoa?

21  
 22 or;

23  
 24 3. Are you a *United States<sup>F</sup>* “citizen”? (domicile in a civil sense) Or more typically styled, “Are  
 25 you a ‘*U.S.<sup>F</sup>* citizen’?” Or, are you a “citizen of the *United States<sup>F</sup>*”?

26  
 27 Furthermore, since domicile is a declaration of where one intends to return, or would like to declare as a  
 28 legal home, nobody can make that election other than the individual declaring it—whether declared with  
 29 full knowledge of the implication behind the declaration or not. Nationality is generally not an election,  
 30 while domicile is an election. Nationality and domicile and/or residence are mutually exclusive issues—  
 31 the former a political status, while the latter commutes a civil status. One could errantly construe the  
 32 “U.S. Citizen Y/N?” inquiry as an inquiry into nationality, when in reality it is a domicile election.

## U.S. National—Political and Civil Contexts

With a thorough development of the differences between political citizenship and civil citizenship established, a complete understanding of why the IRS website addresses two meanings (political and civil) under the heading “U.S. National” is now more easily understood.

The screenshot shows the IRS website page titled "Immigration Terms and Definitions Involving Aliens". The page is viewed in Mozilla Firefox. The URL is [www.irs.gov/businesses/small/international/article/0,,id=129236,00.html](http://www.irs.gov/businesses/small/international/article/0,,id=129236,00.html). The page content includes a navigation menu with categories like Individuals, Businesses, Charities & Non-Profits, Government Entities, Tax Professionals, Retirement Plans Community, and Tax Exempt Bond Community. The main content area is titled "Immigration Terms and Definitions Involving Aliens" and contains definitions for "Alien", "U.S. National", and "U.S. Citizen". The "U.S. National" definition is highlighted with a red box. The definition states: "An individual who owes his sole allegiance to the United States, including all U.S. citizens, and including some individuals who are not U.S. citizens. For tax purposes the term "U.S. national" refers to individuals who were born in American Samoa or the Commonwealth of the Northern Mariana Islands." Below this, the "U.S. Citizen" definition is provided with a list of six conditions. A footnote explains the Child Citizenship Act (INA) and lists three conditions for automatic acquisition of U.S. citizenship.

The text in the red-box above is re-visited:

### ***U.S. National***

*An individual who owes his sole **allegiance to the United States**, including all U.S. citizens, and including some individuals who are not U.S. citizens. **For tax purposes** the term "U.S. national" refers to individuals who were born in American Samoa or the Commonwealth of the Northern Mariana Islands. **[emphasis added]***

The website definition comprises two segments—the first segment references “allegiance,” while the second segment qualifies the context by prefacing with the phrase, “for tax purposes.”

Segment one simply refers to political citizenship or nationality. Members of the nation all owe allegiance to the *United States*<sup>N</sup> and are afforded protection by the Federal government. However, how that nationality is commuted is quite different for many members of the nation. Nationality can be



1 commuted by the Fourteenth Amendment, the “citizenship clause” of the Fourteenth Amendment  
 2 extended *ex proprio vigore* through an Act of Congress, the “national but not citizen of the United States”  
 3 and “non-citizen national” appellations from the Immigration and Nationality Act (“INA”), birth abroad  
 4 to American parents with political status commuted through the doctrine of *jus sanguinis*, or through the  
 5 process of naturalization. Allegiance is the key word which relates exclusively to nationality and thus the  
 6 nation of the *United States*<sup>N</sup>. Therefore, the first segment of the “U.S. National” definition on the IRS  
 7 website refers to the nation the *United States*<sup>N</sup> resulting in a “U.S.<sup>N</sup> National” meaning.

8  
 9 Segment two refers to those members of *United States*<sup>F</sup> who have not obtained their nationality and  
 10 political status through the “citizenship clause” extended *ex proprio vigore* through an Act of Congress—  
 11 namely those born in American Samoa. It may also designate a domiciliary of the CNMI who has  
 12 obtained citizenship through the “citizenship clause” *ex proprio vigore* but who has made an election to  
 13 be treated as a “national but not citizen of the United States” pursuant to Section 302 of the Compact of  
 14 Free Association Act of 1986. For tax purposes the meaning of the term “United States” is *United*  
 15 *States*<sup>F</sup>. Therefore the second segment of the “U.S. National” definition refers to the territorial  
 16 subdivision of the nation where an Act of Congress is locally applicable—the *United States*<sup>F</sup>. This  
 17 results in a “U.S.<sup>F</sup> national” context describing an individual domiciled within the *United States*<sup>F</sup> who is  
 18 not a “U.S.<sup>N</sup> National” through the “citizenship clause” imputed by the Fourteenth Amendment or *ex*  
 19 *proprio vigore* through an Act of Congress, but rather through the INA.

20  
 21 A citizen of the District of Columbia, Puerto Rico, Guam, the USVI, and a domiciliary of the CNMI who  
 22 has not made a “non-citizen national” election is also a “U.S.<sup>F</sup> national.” But because said individual is a  
 23 citizen of the *United States*<sup>F</sup>, s/he is more appropriately referred to as a “*United States*<sup>F</sup> citizen” under the  
 24 IRC. In a civil context the term “United States” is applied in its geographical sense pursuant to 26 U.S.C.  
 25 § 7701(a)(9) and the term “citizen” is applied in its civil sense pursuant to 26 CFR 1.1-1(c).

26  
 27 **26 CFR §1.1-1 Income tax on individuals.**

28  
 29 *(c) Who is a citizen. Every person born or naturalized in the United States and subject to*  
 30 *its jurisdiction is a citizen.*

31  
 32 Although the definition of citizen styled in 26 CFR 1.1-1(c) is nearly identical to the definition of political  
 33 citizenship styled in the Fourteenth Amendment, the context of 26 CFR 1.1-1(c) is one of civil status  
 34 within an Act of Congress—not political status within the Constitution. The citizen definition of 26 CFR  
 35 1.1-1(c) describes an individual who is born or naturalized within the *United States*<sup>F</sup> and subject to its  
 36 civil jurisdiction—not the political jurisdiction of the *United States*<sup>N</sup> as in the case of the Fourteenth  
 37 Amendment and the political citizenship commuted through it to State Citizens of the *United States*<sup>50</sup>.

38  
 39 A citizen of one of the fifty states is a *United States*<sup>N</sup> citizen but not a *United States*<sup>F</sup> citizen. A *United*  
 40 *States*<sup>F</sup> citizen is a *United States*<sup>F</sup> national, but not every *United States*<sup>F</sup> national is a *United States*<sup>F</sup>  
 41 citizen and therefore also not a *United States*<sup>N</sup> citizen. How statuses are commuted under the American  
 42 system of federalism is a very complex topic. There are multiple meanings for the term “United States.”  
 43 The descriptive terms “national” and “domiciliary” have been abandoned by the Federal government in  
 44 favor of their synonymous term “citizen.” Likewise, “nationality” and “domicile” have been abandoned  
 45 by the Federal government in favor of their synonymous term “citizenship.” Why is another issue.

1 Because nationality and the way in which one obtains it in the United States of America (*United States<sup>N</sup>*)  
 2 is such a complex topic, a Venn diagram is helpful in breaking down the various statuses and seeing  
 3 where and to whom each status applies. Because the Federal government is the legislating body for Title  
 4 8, the various statuses must be considered with regard to the territory over which the Federal  
 5 government’s legislative sovereignty extends—the *United States<sup>F</sup>*.

6  
 7 *“A statute will, as a general rule, be construed as intended to be **confined in its operation and***  
 8 ***effect to the territorial limits within the jurisdiction of the lawmaker**, and words of universal*  
 9 *scope will be construed as meaning only those subject to the legislation.” **[emphasis added]***

10  
 11 *American Banana Co. v. United Fruit Co.*, 213 U.S. 347 (1909)

12  
 13 The unique distribution of legislative sovereignty within the *United States<sup>N</sup>* creates a dichotomy in  
 14 applying the legislation of Title 8 for American nationals versus foreign nationals. The Federal  
 15 government does not dictate the civil alien status of citizens of the fifty states—rather it is done through  
 16 an election of domicile and/or residence—something beyond the authority of the Federal government.  
 17 American nationals declaring a domicile and residence within any of the fifty states are statutory aliens  
 18 relative to the civil jurisdiction where an Act of Congress is locally applicable—merely by declaration  
 19 and subsequent action. This is the primary benefit and implication of shared legislative sovereignty under  
 20 the American system of federalism, and it was created by design for the protection of property and rights  
 21 of State Citizens under the Constitution. Thus, there is a clear distinction between nationality, federal  
 22 citizenship, and State Citizenship under the Constitution as consistently affirmed by the courts.

23  
 24 *“It is quite clear, then, that there is a citizenship of the United States and a citizenship of a State,*  
 25 ***which are distinct from each other** and which depend upon different characteristics or*  
 26 *circumstances in the individual.” **[emphasis added]***

27  
 28 *Slaughter House Cases*, 83 U.S. 36 (1873)

29  
 30  
 31 *“The first clause of the fourteenth amendment made negroes citizens of the United States,*  
 32 *and citizens of the State in which they reside, and thereby **created two classes of citizens, one of***  
 33 ***the United States and the other of the state.**” **[emphasis added]***

34  
 35 *Cory et al. v. Carter*, 48 Ind. 327 (1874)

36  
 37  
 38 *“We have in our political system a Government of the United States and a government of*  
 39 *each of the several States. **Each one of these governments is distinct from the others, and each***  
 40 ***has citizens of its own.**” **[emphasis added]***

41  
 42 *U.S. v. Cruikshank*, 92 U.S. 542 (1875)

43  
 44  
 45 *“**One may be a citizen of a State and yet not a citizen of the United States.** Thomasson v. State,*  
 46 *15 Ind. 449; Cory v. Carter, 48 Ind. 327 (17 Am. R. 738); McCarthy v. Froelke, 63 Ind. 507;*  
 47 *In Re Wehlitz, 16 Wis. 443.” **[emphasis added]***

48 *McDonel v. State*, 90 Ind. 320, 323 (1883)

49  
 50  
 51

1 “A person who is a citizen of the United States is necessarily a citizen of the particular state  
 2 in which he resides. **But a person may be a citizen of a particular state and not a citizen of**  
 3 **the United States. To hold otherwise would be to deny to the state the highest exercise of its**  
 4 **sovereignty, -- the right to declare who are its citizens.**” [emphasis added]

5  
 6 *State v. Fowler, 41 La. Ann. 380; 6 S. 602 (1889)*

7  
 8  
 9 “There are, then, under our republican form of government, **two classes of citizens, one of**  
 10 **the United States and one of the state.** One class of citizenship may exist in a person, without the  
 11 other, as in the case of a resident of the District of Columbia; but both classes usually exist in the  
 12 same person.” [emphasis added]

13  
 14 *Gardina v. Board of Registrars, 160 Ala. 155; 48 S. 788, 791 (1909)*

15  
 16  
 17 “...citizens of the District of Columbia were not granted the privilege of litigating in the  
 18 federal courts on the ground of diversity of citizenship. Possibly no better reason for this fact  
 19 exists than such citizens were not thought of when the judiciary article of the federal Constitution  
 20 was drafted. ...citizens of the United States ... were also not thought of; **but in any event a citizen**  
 21 **of the United States, who is not a citizen of any state, is not within the language of the**  
 22 **Constitution.**” [emphasis added]

23  
 24 *Pannill v. Roanoke, 252 F. 910, 914 (1918)*

25  
 26  
 27 “**There is a distinction between citizenship of the United States and citizenship of a particular**  
 28 **state, and a person may be the former without being the latter.**” [emphasis added]

29  
 30 *Alla v. Kornfeld, 84 F.Supp. 823 (1949)*

31  
 32  
 33 “A person may be a citizen of the United States and yet be not identified or identifiable as a  
 34 citizen of any particular state.”

35  
 36 *Du Vernay v. Ledbetter, 61 So.2d 573 (1952)*

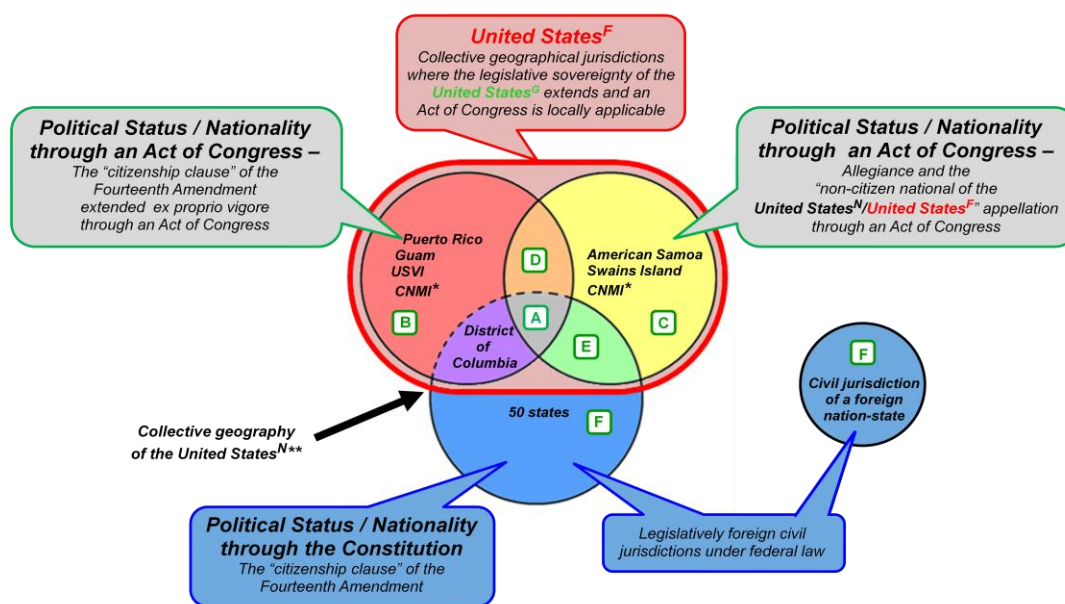
37  
 38 The above rulings by state and federal courts clearly indicate the exclusivity between political status  
 39 (constitutional citizenship which is equivalent to statutory nationality) and civil status, which is imputed  
 40 through domicile and/or residence within a particular civil jurisdiction whether in a foreign state or  
 41 federal territory. A State Citizen of one of the *United States*<sup>50</sup>, by virtue of that State’s legislative  
 42 sovereignty, is an alien under certain federal statutory laws.

43  
 44 However, because the Federal government exercises subject matter jurisdiction over immigration and  
 45 naturalization of foreign nationals (political and civil aliens), the context over the imputed “United States”  
 46 meaning of certain Title 8 status definitions could be construed as interchangeable between the *United*  
 47 *States*<sup>F</sup> and the *United States*<sup>N</sup> when foreign nationals are at issue. The Federal government exercises  
 48 subject matter jurisdiction over all foreign nationals present anywhere within the political jurisdiction of  
 49 the *United States*<sup>N</sup>. Thus, a foreign national is both a political alien with respect to the *United States*<sup>N</sup>  
 50 and as a result, a civil alien with respect to the *United States*<sup>F</sup>. Whereas, a State Citizen within the *United*  
 51 *States*<sup>50</sup> is a citizen and national of the *United States*<sup>N</sup> but a statutory alien relative to the *United States*<sup>F</sup>.

1 "Our cases have long recognized the preeminent role of the Federal Government with respect to  
 2 the regulation of aliens within our borders. See, e. g., *Mathews v. Diaz*, 426 U. S. 67 (1976);  
 3 *Graham v. Richardson*, 403 U. S. 365, 377-380 (1971); *Takahashi v. Fish & Game Comm'n*, 334  
 4 U. S. 410, 418-420 (1948); *Hines v. Davidowitz*, 312 U. S. 52, 62-68 (1941); *Truax v. Raich*, 239  
 5 U. S. 33, 42 (1915). Federal authority to regulate the status of aliens derives from various  
 6 sources, including the Federal Government's power "[t]o establish [a] uniform Rule of  
 7 Naturalization," U. S. Const., Art. I, § 8, cl. 4, its power "[t]o regulate Commerce with foreign  
 8 Nations", id., cl. 3, and its broad authority over foreign affairs, see *United States v. Curtiss-*  
 9 *Wright Export Corp.*, 299 U. S. 304, 318 (1936); *Mathews v. Diaz*, *supra*, at 81, n. 17; *Harisiades*  
 10 *v. Shaughnessy*, 342 U. S. 580, 588-589 (1952)." [emphasis added]

11  
 12 *Toll v. Moreno*, 458 U.S. 1 (1982)

13  
 14 **Figure 9** below illustrates the various statuses assigned under Title 8. The basis for determining an  
 15 applicable status is two-fold—first regard nationality (foreign or domestic), then applicable civil status  
 16 derived from nationality and applicable domicile and/or residence of the individual at issue. Foreign  
 17 nationals are political aliens relative to the *United States<sup>N</sup>* and civil aliens relative to any civil jurisdiction  
 18 within the *United States<sup>N</sup>*. However, Title 8 statuses of American nationals are based on the *United*  
 19 *States<sup>N</sup>* when a political status is at issue and the *United States<sup>F</sup>* when a civil status is at issue.



\* Certain inhabitants of the CNMI may elect to be treated as among "nationals and citizens of the United States" or as a "non-citizen national of the **United States<sup>N</sup>**/**United States<sup>F</sup>**."

\*\* Effectively uninhabited territory is not represented.

21  
 22  
 23 **A** 8 U.S.C. § 1101(a)(21) – national – means a person owing permanent allegiance to a state.

24 **B** 8 U.S.C. § 1401 – nationals and citizens of the **United States<sup>F</sup>** (civilly)/**United States<sup>N</sup>** (politically)

25 **C** 8 U.S.C. § 1408 – national but not citizen of the **United States<sup>F</sup>** (civilly)/**United States<sup>N</sup>** (politically)

26 **D** 8 U.S.C. § 1101(a)(22) – national of the **United States<sup>F</sup>** (civilly)/**United States<sup>N</sup>** (politically)

27 **E** 8 U.S.C. § 1452 – non-citizen national ("...of the **United States<sup>F</sup>**" (civilly)/**United States<sup>N</sup>** (politically))

28 **F** 8 U.S.C. § 1101(a)(3) – alien – means any person not a citizen or national of the **United States<sup>F</sup>** (civilly)

29 – means any person not a citizen or national of the **United States<sup>N</sup>** (politically)

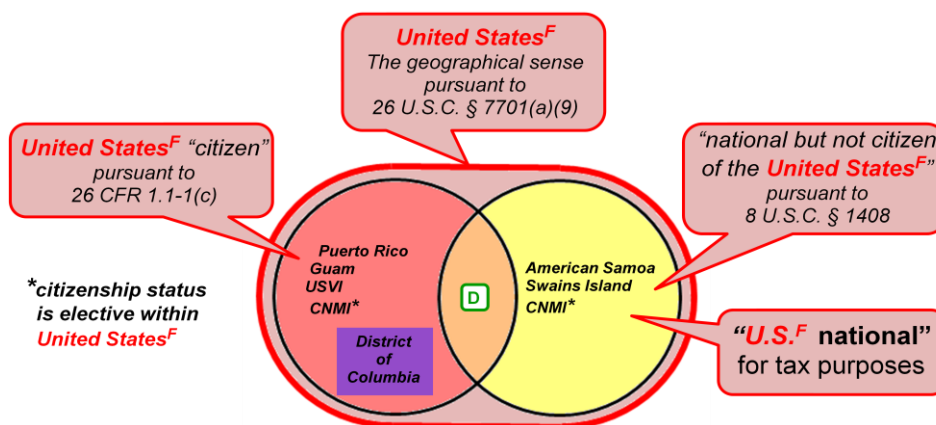
30  
 31 **Figure 9. The Various Statuses Addressed Under Title 8—Aliens and Nationality**

1 Foreign nationals are regarded differently from American nationals due to the fact that the Federal  
 2 government exercises the authority over matters external to the nation—namely, the presence of foreign  
 3 nationals anywhere on American soil. American nationals on the other hand, who are citizens and  
 4 residents of one of the fifty states, are alien to the civil jurisdiction where an Act of Congress is locally  
 5 applicable. This is because status in a jurisdiction, whether political or civil, is relative to the perspective  
 6 of said jurisdiction’s lawmaker. In the United States of America, that sovereignty is based on locality or  
 7 subject matter, depending on the incidence at issue.

8  
 9 *“The foregoing considerations would lead, in case of doubt, to a construction of any statute as*  
 10 *intended to be **confined in its operation and effect to the territorial limits over which the***  
 11 ***lawmaker has general and legitimate power. “All legislation is prima facie territorial.”** Ex Parte*  
 12 *Blain, L.R. 12 Ch.Div. 522, 528; State v. Carter, 27 N.J.L. 499; People v. Merrill, 2 Parker,*  
 13 *Crim.Rep. 590, 596. Words having universal scope, such as “every contract in restraint of trade,”*  
 14 *“every person who shall monopolize,” etc., will be taken as a matter of course to mean only*  
 15 *everyone subject to such legislation, not all that the legislator subsequently may be able to catch.”*

16  
 17 *American Banana Co. v. United Fruit Co., 213 U.S. 347 (1909)*  
 18

19 Civil status for tax purposes is based on whether or not an individual is a citizen or resident of the civil  
 20 jurisdiction defined as the **United States<sup>F</sup>** pursuant to 26 U.S.C. § 7701(a)(9). Therefore, for tax  
 21 purposes, the term “**U.S.<sup>F</sup> national**” refers to those individuals whose nationality is not commuted through  
 22 the “citizenship clause” extended *ex proprio vigore* through an Act of Congress. As stated on the IRS’  
 23 own website, for tax purposes, the term “**U.S.<sup>F</sup> national**” refers to individuals who were born in American  
 24 Samoa or the CNMI. Although the IRS statement is true, it must be remembered that insofar as those  
 25 born in the CNMI are concerned, the “**U.S.<sup>F</sup> national**” appellation only applies to them for tax purposes  
 26 when an election has been made to be treated as a “national but not citizen of the United States” pursuant  
 27 to section 302 of the Compact of Free Association Act of 1986. Otherwise, a domiciliary of the CNMI,  
 28 although still a “**U.S.<sup>F</sup> national**,” is more accurately regarded as a **United States<sup>F</sup>** “citizen” pursuant to 26  
 29 CFR 1.1-1(c). This further illustrates that civil status, for the purposes of the federal income tax, is an  
 30 election and not reflective of the method by which one becomes an American national (**U.S.<sup>N</sup> national**).



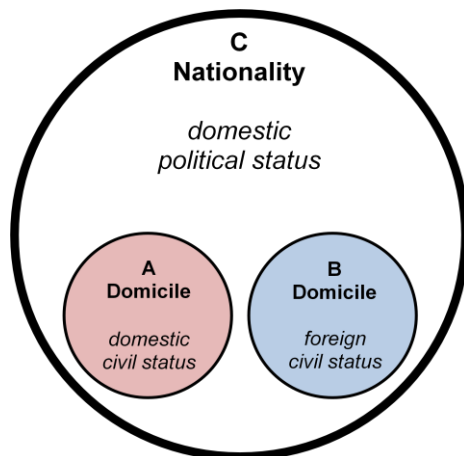
32 **D** 8 U.S.C. § 1101(a)(22) – national of the **United States<sup>F</sup>**  
 33  
 34  
 35

**Figure 10. “U.S.<sup>F</sup> national” Status for Tax Purposes Illustrated**



1 **SUMMARY:**

2  
3 Political status and civil status under the American system of federalism are mutually exclusive issues.  
4 American nationals can be domiciled and/or resident within the domestic civil jurisdiction where an Act  
5 of Congress is locally applicable (A Domicile below), or they can be domiciled in any one of the federally  
6 foreign civil jurisdictions of the fifty states (B Domicile below). Both however, are politically domestic  
7 and share the same nationality (C Nationality below).  
8  
9 .



10  
11  
12  
13 **Figure 10. Political Status and Civil Status are Mutually Exclusive Issues**

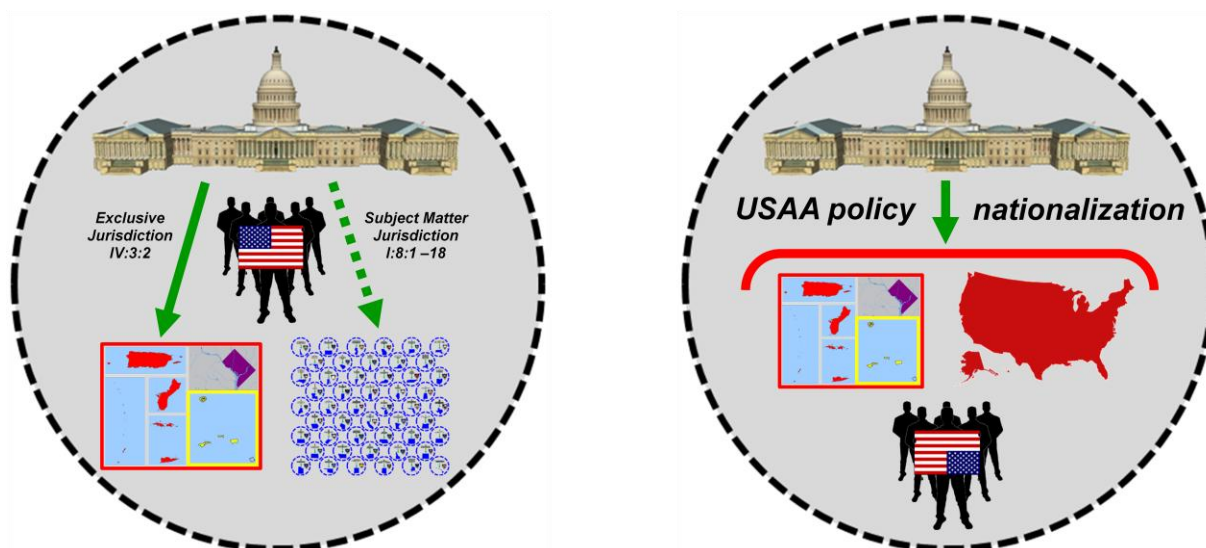
14  
15 The term “United States” can be used to describe the nation (*United States<sup>N</sup>*), the collective territory over  
16 which the sovereignty of the Federal government extends (*United States<sup>F</sup>*), or the several states united by  
17 and under the Constitution (*United States<sup>50</sup>*). The term “citizen” is synonymous with “national” in a  
18 political sense and “domiciliary” and/or “resident” in a civil sense. The term “citizenship” is synonymous  
19 with “nationality” in a political sense and “domicile” and/or “residence” in a civil sense. Thus, the term  
20 “United States citizen” or any variation of that term must be understood in either its political sense or its  
21 civil sense within certain federal laws if one does not wish to mistakenly surrender the constitutionally  
22 protected status of State Citizen, which is a statutory alien under certain federal laws. This surrender of  
23 status occurs when a “U.S. Citizen’ Y/N?” inquiry is affirmed in a civil sense and a political context was  
24 errantly presumed, and the constitutional equivalent of nationality affirmed by mistake. Affirming a  
25 “U.S. Citizen” status in a civil context is equivalent to declaring a statutory federal domicile. An  
26 individual with a statutory federal domicile is completely subject to every Act of Congress. A foreign  
27 state domiciliary is subject to an Act of Congress when specified and enumerated subject matter  
28 jurisdiction is at issue. Political status and civil status are mutually exclusive issues.  
29

30 The USAA CIP policy errs in two ways. First, USAA CIP policy treats the geographical definition of the  
31 “United States” pursuant to 26 U.S.C. § 7701(a)(9) as also including each of the fifty states in their  
32 geographical sense. The misapplication of the maxims of statutory interpretation as well as the  
33 unprecedented enlargement of the clearly circumscribed limitation on congressional legislative authority

1 under the Constitution has the practical effect of granting the Federal government plenary power over the  
 2 civil status of constitutional State Citizens—an affiliation and thus, an election protected by the First  
 3 Amendment.

4  
 5 Secondly, through USAA’s misapplication of the term “citizen” pursuant to 26 CFR 1.1-1(c) and its  
 6 relevance to the geographical civil jurisdiction defined at 26 U.S.C. § 7701(a)(9), nationality is being  
 7 wrongly conjoined with tax status when the two issues are mutually exclusive. The net result of USAA’s  
 8 errant CIP policy is a total usurpation of the United States Constitution and of the rights secured to its  
 9 citizens for the protection of their status and property.

10  
 11 Under USAA policy, state lines and the implications of their jurisdictional boundaries are relegated to  
 12 mere elements of nostalgia, with no civil authority remaining with the fifty states themselves insofar as  
 13 federal taxes are concerned. USAA policy effectively relegates customers to a federal tax domicile—  
 14 abrogating congressional limitations on levying unapportioned direct taxes in the fifty States pursuant to  
 15 art. I, § 9, cl. 4 of the United States Constitution.



18  
 19  
 20 *The American Reality—Limited Government*

20 *USAA Policy—Authoritarian Government*

21  
 22 **Figure 11. USAA Policy Conjoins Political and Civil Statuses—Usurps Constitutional Rights**

23  
 24  
 25 **RECOMMENDATION:**

26  
 27 Because political status and civil status are mutually exclusive issues, a foreign passport is not required to  
 28 establish a “nonresident alien” civil status for the purposes of the federal income tax. The Codified Bank  
 29 Secrecy Act Regulations at 31 CFR 1020.410 require individuals opening a bank account under an “alien”  
 30 status to provide passport information as one option—not foreign passport information as an absolute  
 31 mandate. A foreign national residing in a politically foreign civil jurisdiction certainly qualifies as a



1 “nonresident alien” for the purposes of the federal income tax and would generally possess a foreign  
 2 passport. But as demonstrated, an American national who is a citizen and resident of one of the fifty  
 3 states is a “nonresident alien” for the purposes of the federal income tax when a physical and elected  
 4 domicile and/or residence without the *United States*<sup>F</sup> is maintained. An American national is not a  
 5 foreign national, and therefore would generally not possess a foreign passport. USAA’s current errant  
 6 policy compels a federal tax domicile as a condition for banking with USAA, depriving the rights of  
 7 members who wish to elect a foreign tax status commensurate with a domicile and residence in one of the  
 8 fifty states—State Citizenship as regarded under the Constitution of the United States. To remedy this  
 9 errant policy, USAA should adopt one of the two following methods with regard to establishing a  
 10 customer profile within the USAA CIP.

11  
 12 1. Add either “United States,” or “U.S.A.” as a passport country of issuance option in the CIP  
 13 drop-down menu and “decouple” nationality from the tax statuses of “U.S. person” and “nonresident  
 14 alien,” which are unique elections exclusive to the nationality of the individual.

15  
 16 2. Allow American nationals with a “nonresident alien” tax status to skip the existing passport  
 17 number and country of issuance drop-down menu inquiry on the front-end of the CIP, as the currently  
 18 styled inquiry and USAA policy mandate for this information applies only to foreign nationals. Allow  
 19 U.S. passport information of American nationals to be recorded in the identification data section at the  
 20 back-end of the CIP. This method is permitted by other financial institutions which have not conjoined  
 21 nationality and tax status within their CIP system as a matter of policy.

22  
 23 **IMPLICATIONS OF FAILING TO REMEDY ERRANT POLICY:**

24  
 25 An individual may submit forms changing tax status pursuant to 26 CFR 301.6109-1(g)(1)(i). Because  
 26 tax status is based on a civil jurisdictional election by the taxpayer, any compelled association with a  
 27 particular jurisdiction by a financial institution is an abridgement of constitutionally protected First  
 28 Amendment rights—a civil violation.

29  
 30 Personnel at financial institutions who refuse to accept and process forms related to a taxpayer declared  
 31 change of status, in addition to civil violations, could be exposed to criminal violations under Title 18 of  
 32 the United States Code, including but not limited to the following—

- 33  
 34 18 U.S.C. § 241—Conspiracy against rights  
 35 18 U.S.C. § 242—Deprivation of rights under color of law  
 36 18 U.S.C. § 245—Federally protected activities  
 37 18 U.S.C. § 371—Conspiracy to impede or injure officer  
 38 18 U.S.C. § 1512—Tampering with a witness, victim, or an informant  
 39 18 U.S.C. § 1513—Retaliating against a witness, victim, or an informant  
 40 18 U.S.C. § 1622—Subornation of perjury

41  
 42 For the aforementioned reasons, USAA should change its current CIP policy, and make customers solely  
 43 responsible for their own tax related matters. USAA once had this policy in place, but has since  
 44 abandoned that policy in favor of an errant policy mandating a customer’s tax status based on nationality.