

Henry Dale Goltz
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The United States of America
The United States
District Court of the United States
For the Western District of Texas
San Antonio Division

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) CASE NO. 5:06-cv-503
)
HENRY D. GOLTZ and)
EVANGELINE S. GOLTZ,)
)
Defendants.)

LODGMET OF JUDICIAL NOTICE AND
AMENDED ANSWER WITH AFFIRMATIVE DEFENSES

Comes now, Henry Dale Goltz and Evangelina Salinas Goltz (hereafter “Goltzes”), without Assistance of Counsel, domiciled in the territorial boundaries of Texas, in this Court that does not have cognizance of said Cases arising under Article III of the Constitution for the United States of America in Law and Equity exercising the Judicial Power of the United States under the authority of the United States.

The Goltzes are citizens of the United States of America, American citizens, Natural Born, and citizens of the foreign state of Texas, and domiciled in its territorial boundaries. *The Goltzes are not “citizens of the United States”* as that term is used in Acts of Congress and by the Internal Revenue Service.

AMENDED ANSWER

1. The Goltzes are without sufficient knowledge to admit or deny the Plaintiff being the UNITED STATES OF AMERICA, and therefore denies same. The Goltzes have no knowledge of any assessments or tax liens, and therefore denies same.

2. The Goltzes are without sufficient knowledge to admit or deny the relationship of the Attorney General of the United States, Chief Counsel of the Internal Revenue Service, and therefore denies same.

Under 26 U.S.C. Section 7402, there are no substantive regulations. Therefore the Goltzes deny 26 U.S.C. § 7402 in total.

Under 26 U.S.C. § 7403, there is one substantive regulation and it is 27 CFR § 70.192, being an “Action to enforce lien or to subject property to payment of tax.” Only ATF Officers can enforce this substantive regulation. The Internal Revenue Service can only administer regulations in Title 26 of the CFRs under 26 CFR § 601.101, and not in Title 27 of the CFRs. Therefore the Goltzes deny 26 U.S.C. § 7403 in total.

The Goltzes are citizens of the United States of America, American citizens, Natural Born, and citizens of the foreign state of Texas. *The Goltzes are not “citizens of the United States”*. The Goltzes are without sufficient knowledge to admit or deny the application of 28 U.S.C. Sections 1340 and 1345, and therefore deny same.

3. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

4. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

5. Henry Dale Goltz is domiciled within the territorial boundaries of Texas. Otherwise, Henry Dale Goltz is without sufficient knowledge to admit or deny and therefore denies he is a “taxpayer”.

6. Evangelina Salinas Goltz is domiciled within the territorial boundaries of Texas. Otherwise, Evangelina Salinas Goltz is without sufficient knowledge to admit or deny and therefore denies she is a “taxpayer”.

7. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

8. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

9. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

10. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

11. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

12. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

13. The Goltzes admit there is said real property as described.

14. The Goltzes admit that they may claim a homestead interest in the property.
15. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.
16. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.
17. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.
18. Under 26 U.S.C. § 6321, there are no substantive regulations under 26 CFR. The regulations to enforce 26 U.S.C. are contained within 27 CFR Part 70. Only ATF Officers can enforce these substantive regulations and the Internal Revenue Service can only administer regulations in Title 26 of the CFRs under 26 CFR § 601.101, and not in Title 27 of the CFRs. Therefore the Goltzes deny 26 U.S.C. § 6321 in total.
19. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.
20. The Goltzes are without sufficient knowledge to admit or deny and therefore denies same.

AFFIRMATIVE DEFENSES

1. Henry D. Goltz or HENRY D. GOLTZ is not the true name of Henry Dale Goltz. Evangeline Goltz or EVANGELINE S GOLTZ is not the true name of Evangelina Salinas Goltz
2. The Goltzes have no knowledge of being “citizens of the United States” and denies same.
3. The USDC uses “citizens of the United States” in violation of the Seventh Amendment in the Bill of Rights of the Constitution for the United States of America and the Judiciary Act of 1789 where only citizens of one of the several States can participate in a Trial by Jury.
4. No determination of the status “taxpayer” by the Secretary of the Treasury or his delegate, (as the term “delegate” is defined at 26 U.S.C. § 7701(a)(12)(A)), has been provided to the Goltzes. See requirement for the Secretary to publish implementing regulations for taxing and liability statutes at 26 U.S.C. § 6001; see also, “burden of proof” requirements for administrative agencies at 5 U.S.C. §§ 556(d) & (4).
5. Only “Substantive regulations” have the force and effect of law under the statutory authority of Congress and no substantive regulations are cited in the Complaint. See *Chrysler v. Brown*, 441 U.S. 281 (1979).

6. Under 26 U.S.C. § 7402, there are no substantive regulations. Therefore 26 U.S.C. § 7402 has no application to the Goltzes

7. Under 26 U.S.C. § 7403, there is one substantive regulation and it is 27 CFR § 70.192, being an “Action to enforce lien or to subject property to payment of tax.” Only ATF Officers can enforce this substantive regulation. The Internal Revenue Service can only administer regulations in Title 26 of the CFRs under 26 CFR § 601.101, and not in Title 27 of the CFRs. Therefore the Goltzes deny 26 U.S.C. § 7403 in total.

8. The USDC does not have cognizance of the class of Cases arising under Article III of the Constitution for the United States of America in Law and Equity exercising the judicial Power of the United States by virtue of 28 U.S.C. §§ 1340 or 1345.

9. The USDC may have jurisdiction “. . . arising under any Act of Congress providing for internal revenue” (28 U.S.C. 1340), but the Goltzes are subject only to the “Laws of the United States”, made under the authority of the United States, in a “District Court of the United States” having cognizance of said class of cases or controversies. See Constitution for the United States of America and the Judiciary Act of 1789. Congress can make “acts of Congress” (exclusive legislation), “laws of Congress” (acting as a national and state legislature – territories and possessions) or “Laws of the United States.

The USDC may have jurisdiction “. . . expressly authorized to sue by Act of Congress.”, but the Goltzes are subject only to the “Laws of the United States.”

10. The venue is improper, as the Goltzes are domiciled in the territorial boundaries of Texas, as said real property is in 78249.

11. The Goltzes have never been notified that they are “taxpayers” by anyone, including the Secretary of Treasury or his delegate, even though it has been requested several times.

12. The “Notice(s) of Federal Tax Lien” with the “Name of Taxpayer” as “HENRY D GOLTZ” OR “EVANGELINE S GOLTZ” filed in the Office of the Bexar County Clerk at 100 Dolorosa, Room 108 at San Antonio, Texas are unlawful and illegal as the only substantive regulations are contained within Title 27 of the CFRs, and only for ATF issues, to wit:

Starting with the code sections listed on the front page of the Notice of Federal Tax Lien the following codes sections are 26 U.S.C. § 6321, 26 U.S.C. § 6322 and 26 U.S.C. § 6323.

There is only one substantive regulation for § 6321, which is under 27 CFR § 70.207 - Lien for taxes.

For § 6322 there is no substantive regulation, whatsoever.

For § 6323 there are eleven (11) substantive regulations that are all found within Title 27 of the CFRs and one Title 26 procedural regulation, to wit:

- a. 27 CFR § 70.143 - Definitions; and,
- b. 27 CFR § 70.144 – Special rules; and,
- c. 27 CFR § 70.145 - Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors; and,
- d. 27 CFR § 70.146 - 45-day period for making disbursements, and,
- e. 27 CFR § 70.147 - Priority of interest and expenses; and,
- f. 27 CFR § 70.148 - Place for filing notice; form; and,
- g. 27 CFR § 70.149 - Refiling of notice of tax lien; and,
- h. 27 CFR § 70.231 - Protection for certain interests even though notice filed; and,
- i. 27 CFR § 70.232 - Protection for commercial transactions financing agreements; and,
- j. 27 CFR § 70.233 - Protection for real property construction or improvement financing agreements; and,
- k. 27 CFR § 70.234 - Protection for obligatory disbursement agreements; and,
- l. Treas. Reg. T. 26, Ch I, Subch. F, Pt. 301, Refs & Annotations, being § 301.6323(f)-(1)(c), (Form and Content of Notice), this being a procedural regulation that does not define the taxable activity nor the source of the income.

13. The IRS, VIC DIETZ (hereafter “DIETZ”) and various IRS agents/officers have violated the Title 26 CFRs, Title 5 U.S.C. §101 *et seq.*, in particular 5 U.S.C. §552(a)(1), and various Code sections of Title 26 within the United States Code, including but not limited to the following: §1 – Tax Imposed; and, §32 – Earned Income; and, §61 – Gross Income; and, §861 – Sources of Gross Income; and, §3401 – Wages; and, §6201 – Assessment; and, §6203 – Method of Assessment; and, §6301 – Collection Authority; and, §6321 – Lien for Taxes; and, §6322 – Period of Lien; and, §6323 – Validity and Priority Against Certain Persons; and, §6331 – Levy and Distraint; and, §6332 – Surrender of Property; and, §6334 – Property Exempt from Levy; and, §6343 – Release of Levy and Notice of Release; and, §6601 – Interest; and, §6651 – Penalties; and, §6702 – Frivolous Income Tax Return.

DIETZ has violated state law, as no judgment or abstract of judgment is found on the back of the Notice of Federal Tax Liens being Form 668(Y)(c), filed at the Office of the Bexar County Clerk, San Antonio Texas. DIETZ has violated Texas Property Code Chapter 14, Sections 14.001 - 14.007 since there is no judgment registered in Texas pursuant to the Foreign Judgments Act.

14. All issued Liens and Levies identify collection activities against a “taxpayer”. The Goltzes state for the record that they are not “taxpayer(s)” acting as business entities.

"taxpayer" means any natural person, corporation, partnership, firm, association, or governmental unit or agency **acting as a business entity** [Emphasis added]

15. Congress has set forth explicit mandates for agencies and their employees that require performance to fulfill ministerial duties in an official capacity. DIETZ refuses to acknowledge and abide by these mandates and intentionally performs actions outside his delegated scope of employment to deny the Goltzes their constitutional right to due process. The IRS agency condones these practices and allows its agents to conspire amongst themselves, and with private employers, to confiscate property without due process or court judgment.

No formal introduction of public records including rules and regulations are required, and the courts of the United States are to take judicial notice. This court shall take judicial Notice of each of the substantive regulations and USC sections mentioned herein including all other public records. See *Caha v. United States*, 152 U.S. 211, 221-222 (1894); *U.S. v. Heschmaker*, 63 U.S. 392, 405 (1859); *Armstrong v. United States*, 80 U.S. 154, 156 (1871); *Jones v. U.S.*, 137 U.S. 202, 212, 214 (1890); and *Lilly v. Grand Trunk Western R. Co.*, 317 U.S. 481, 488 (1943).

It is always appropriate to assume that our elected representatives and others in the government, like other citizens, know the law. See *Cannon v. University of Chicago*, 441 U.S. 677, 696-697 (1979).

Congress has under the APA in 5 U.S.C. §500 *et seq.*, and in particular the unambiguous public record of 5 U.S.C. §552(a)(1), imposed requirements upon all agencies of the United States to use *substantive regulations that have the force and effect of law plus the statutory authority of Congress to be published for each substantive regulation, which the IRS and its agents have not adhered to in this instant case.* DIETZ, as an employee of one of those agencies, has intentionally and repeatedly violated the procedures as set forth by Congress.

The IRS is an **Agency** as stated in 26 CFR §601.101(a), being a regulation of the IRS, with the addition that all of Title 26 regulations of the CFRs are completely under the authority of the IRS (see 1 CFR §22.1). The IRS acknowledges within 26 CFR §601.101 that its regulations relating to the taxes administered by the service ***should only be contained in Title 26 of the CFRs.***

There are three types of regulations *included* in the CFRs, being the following, to wit:

- ***Substantive regulations***, “various” in number, (found in Part 1 – *Income Tax Regulations*; Part 20 - *Estate Tax Regulations*; and Part 31 - *Employment Tax Regulations*; See 26 CFR §601.702(a)(1)(ii)); and,

• **Interpretative regulations**, (found in Part 601 - *Statement of Procedural Rules*; See 26 CFR §601.702(a)(1)(ii)); *and*,

• **Administrative regulations**, (found in Part 301 - *Procedure and Administrative Regulations*; See 26 CFR §601.702(a)(1)(ii)).

Congress clearly mandates all of these three types of regulations to be published in the Federal Register under 5 U.S.C. §552(a)(1), but the **substantive regulations have a unique procedure to be followed**. Substantive regulations must include a comment period that is not required of the other two types of regulations, thereby invoking the participation of the public whose **rights shall be affected**.

And further, Congress has mandated in 5 U.S.C. §552(a)(1)(D), that of the three types of regulations used, **only the substantive rules must be published under the statutory authority of Congress**, to wit: “Substantive rules of general applicability adopted as authorized by law.”

In order to identify the **substantive regulations** from the remaining two types of regulations mixed helter-skelter in the CFRs, the **substantive regulations** must contain the statutory authority in parenthesis at the bottom of the text or in narrative form within the text.. This is clearly mandated and stated in 1 CFR §22.2, which applies to all agencies. See also 1 CFR §8.5, 1 CFR §21.40, 1 CFR §21.52, and 1 CFR §22.

This type of regulation, being a **substantive regulation** with its statutory authority of Congress, is **the only regulation** that has **force and effect of law**, is held in *Chrysler Corp. v. Brown*, 441 U.S. 281, 295-296, 301-303 (1979).

When there is no Notice (publishing) of the **substantive regulation** with the Code section authorizing it, **no obligation, duty or right of the Goltzes can be affected**. See 5 U.S.C. §552(a)(1), 26 CFR §601.702(a), and *Morton v. Ruiz*, 415 U.S. 199 (1974); *United States v. Caceres*, 440 U.S. 741, 752 (1979); *Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162 (9th Cir. 2004); *Yesler Terrace Community Council v. Cisneros*, 37 F.3d 442, 448 (9th Cir. 1994); and *Sherman v. Yakahi*, 549 F.2d 1287, 1292 (9th Cir. 1977).

The Parallel Table of Authorities (hereafter “PToA”) is a partial attempt to document Code sections with corresponding **substantive regulation(s)**, but it clearly states at the beginning of the PToA that the table cannot be relied upon as “all-inclusive.” Therefore, even as this is a very general guide to discern the Code Sections with their respective **substantive regulations**, the PToA is not a reliable source of Notice required by Congress as it is incomplete. Incidentally, there is not one complete table of the substantive regulations with their Statutory Authorities published in the CFRs to satisfy the mandatory Notice requirements under the unambiguous language of 5 U.S.C. §552(a)(1) and 26 CFR §601.702(a).

Therefore, with Congress' unambiguous mandatory procedure requirements upon the IRS agency not being adhered to by IRS agents/employees, any agency enforcement actions by the use of *non-substantive* regulations *are void* and an agency's failure to comply with rulemaking requirements of the APA *is fatal*. See *State of Ohio DHS v. U.S. DHHS*, 862 F.2d 1228, 1237 (1988) and *Pickus v. United States Bd. of Parole*, 507 F.2d 1107, 1114 (D.C.Cir.1974).

Therefore, DIETZ, being bound under the APA, under the unambiguous language of 5 U.S.C. §552(a)(1), under 26 CFR §601.101, and under 26 CFR §601.702(a), acting as agents and/or officers of the IRS agency, are *mandated to only use substantive regulations* with the appropriate statutory authority of Congress *for any obligation or duty to be imposed* upon the Goltzes or for any right of the Goltzes to be affected. By not adhering to the explicit and unambiguous mandate of Congress as stated in the APA and elsewhere, DIETZ has exceeded the scope of his employment and any delegated authority from the Commissioner of the Internal Revenue Service. Simply, he has violated the Congressional procedures imposed upon him. Without the Goltzes having Notice of each and every *substantive regulation with their respective statutory authority* from DIETZ *then no obligation, duty, or right of the Goltzes can be affected* under the unambiguous language of 5 U.S.C. §552(a)(1), 26 CFR §601.101, 26 CFR §601.702(a) and *Chrysler, supra*.

This court is to give effect to the intent and mandate of Congress. Regardless of how serious a problem that an administrative agency seeks to address, it cannot operate in any manner inconsistent with the APA, and the reviewing Court must give effect to the intent of Congress. See *Food and Drug Administration v. Brown & Williamson tobacco Corp.*, 529 U.S. 120, 125-126 (2000). And further, *if the intent of Congress is clear*, that is the end of the matter for the agency and the court. *The court must give effect to the explicit intent of Congress*. See *Chevron, U.S.A., Inc v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842 (1984). In the holding of *Adams v. Nagle*, 303 U.S. 532, 542 (1938) it is stated that a statute (APA) which vests no discretion in an executive officer (IRS employee) concerning his actions, *the court will give immediate effect to compel* him or refrain him from acting (Injunctive relief).

The only power of any agency is that *authorized by law*, such as that authorized by the APA, and the power delegated by *the authority of Congress* in an Act of Congress. To administer a federal statute and to prescribe rules and regulations is not the power to make law. A regulation which does not carry into effect the will of Congress is a mere nullity. See *Manhattan General Equipment Co. v. C.I.R.*, 297 U.S. 129, 134 (1936), also *Dixon v. United States*, 381 U.S. 68, 74-75 (1965), and *Bowen v. Georgetown University Hospital*, 488 U.S. 204, 208 (1988).

Property shall not be seized **without due process of law** and to waive a constitutional right in the civil area cannot be presumed. Establishing the validity of the underlying claim against the alleged debtor is required before he can be deprived of his property. See *Fuentes v. Shevin*, 407 U.S. 67, 95, 97 (1972). The deprivation of any constitutional right (the Goltzes right to due process) is so basic to this society that such a deprivation constitutes **irreparable harm** and no further showing of **irreparable injury** is necessary. See *Brewer v. The West Irondequoit Central School District*, 32 F. Supp.2d 619, 625 (1999) and *Parker v. Winnipiseogee Lake Cotton and Woolen Co.*, 67 U.S. 545, 551 (1862).

The courts are bound by all decisions of the Supreme Court of the United States. See *Agostini v. Felton*, 521 U.S. 203, 237-238 (1997) and *State Oil Co. v. Khan*, 522 U.S. 3, 20 (1997) – “it is this Court’s prerogative alone to overrule one of its precedents.”

DIETZ has **refused**, even after receiving inquiries requesting information concerning his congressional obligations **to disclose any substantive regulation under the authority of Congress for any of his actions** and to date he has not disclosed even one regulation of any type! His and other agents silence is considered evidence of acquiescence as stated in the adjudged decision of *Baxter v. Palmigiano*, 425 U.S. 308, 319 (1976). See also *U.S. ex rel. Vajtauer v. Commissioner of Immigration at Port of New York*, 273 U.S. 103, 111 (1927) and *U.S. v. Bilokumsky*, 263 U.S. 149, 153, 154 (1923), (“Conduct, which forms a basis for inference is evidence. Silence is often evidence of the most pervasive character”); *Kirby v. Tallmadge*, 160 U.S. 379, 383 (1896), (the party omitting to produce evidence in elucidation of subject matter in dispute frequently affords occasion for presumptions against him, since it raises a strong suspicion that such evidence, if adduced, would operate to his prejudice). It is considered **fraud** where there is a duty to answer. See *United States v. Prudden*, 424 F.2d. 1021 (1970) at 1032; cert. denied 400 U.S. 831.

The Goltzes proffer the **unambiguous** intent of Congress contained in the public records of the U.S.C. and the C.F.R.s that create a **legal duty by operation of law** to pay an income tax under the Laws of the United States. For “legal duty” see *Riddell v. Peck-Williamson Heating & Ventilating Co.*, 69 P. 241, 243 and *Ferrell v. Haas*, 220 S.E.2d 771, 773 (1975). In *United States v. Pomponia*, 429 U.S. 10, 12 (1976), it was clearly held that to be prosecuted for “willful” failure to file, there must be some **legal duty** to file. The unambiguous **legal duty** for the Goltzes is created, only under the APA in 5 U.S.C. §552(a)(1) and in particular (D) and then (E), by an **agency (IRS) only** (see 26 CFR §601.701), which absolves the Goltzes of any legal effect upon them if not found as a substantive rule, i.e. a **substantive regulation** published in the CFRs. There are none that DIETZ can or will produce.

DIETZ, including all other IRS agents involved, attest to their respective Form 61, Appointment Affidavits, that they are indeed “an employee of the Government of the United States”. By decision of the Supreme Court of the United States in *Buckley v. Valeo*, 424 U.S. 1, 125 (1976), it was clearly held that “officers of the United States” do not include “employees of the United States.” See also *Auffmordt v. Hedden*, 137 U.S. 310, 327(1890) and; *United States v. Germaine*, 99 U.S. 508(1878). DIETZ is a mere employees without an Office or Duties as no statute has created an Office for him to exercise executive Power. In *Burnap v. United States*, 252 U.S. 512, 516-517 (1920), it was held that if no statute creates an office and the duties of said Office, that person is not an inferior Officer. And further in *Burnap*, the distinction between an inferior officer and employee rests upon the creation of their position, duties, and appointment and not on the character or qualifications of the service. See also *Scully v. United States*, 193 F. 185, 187-189 (Cir. Ct, D. Nev. 1910); *U.S. v. Mouat*, 124 US 303 and *U.S. v. Smith*, 124 US 525.

Therefore, as no IRS agent is an “officer of the United States” or an Inferior Officer and none have an office with duties and powers created by law arising under the Constitution for the United States of America in Article 2, section 2, clause 2, then DIETZ cannot lawfully execute any statute alone without following the mandatory and explicit instructions found in the APA. DIETZ does not exercise any executive Power of the United States. And, it is a misconception that the Department of the Treasury (“DoT”) is part of the executive branch as it is clearly stated in 5 USC §105 and §101 that ***the DoT is an agency***. Rule by agency directive alone is not a constitutional government, which is why the principles set forth in the APA and *Chrysler, FDA, Chevron, Fuentes, Pomponia, Grupo, Buckley and Burnap, supra.* are paramount to the protection of fundamental rights for the American public under the Constitution for the United States of America.

By not adhering to the mandate of Congress, the IRS and its employees are attempting to perform as a government unto themselves, which is outside their official scope of employment and in violation of the unambiguous mandate of the APA. ***Agencies are not the constitutional Government*** – their existence is completely under the control of Congress’ authority and said ***delegation of authority*** must be shown in each substantive regulation to have **force and effect in law**.

The Goltzes have been and continue to suffer numerous legal wrongs because of the unlawful actions of DIETZ by the filing of bogus Notices of Federal Tax Liens; forced into inquisitorial conversations with DIETZ; received numerous threats, fraudulent letters and other documents without ONE substantive regulation from DIETZ; and have been denied due process of law by the taking of property and/or the filing of liens without a court judgment.

And furthermore, DIETZ' actions are arbitrary, capricious, an abuse of discretion, not in accordance with law, contrary to constitutional secured rights of the Goltzes, in excess of statutory jurisdiction, in excess of statutory authority and without observance of the procedure required by law (Congress). See 5 USC §706.

16. The IRS agency must use regulations relating to taxes contained only in Title 26 of the CFRs as found in the public record of 26 CFR §601.101(b); that the IRS is required state separately and publish regulations as required under 5 U.S.C. §552(a)(1) and 26 CFR §601.702(a); that all regulations having *general applicability and legal effect* are to be published in the Federal Register and Code of Federal Regulations as stated in the public records of 1 CFR §1.1, 1 CFR §2.5, 1 CFR §5.2, 1 CFR §5.9, 1 CFR §8.1, and 44 U.S.C. §1505; and that when the regulations are published they must cite the statutory authority as found in the public records of 1 CFR §8.5, 1 CFR §21.40, 1 CFR §21.52, and 1 CFR §22.2.

17. The IRS is to publish in the Federal Register various *substantive regulations* under the Internal Revenue Code of 1986 such as the regulations in part 1 (Income Tax Regulations), the regulations in part 20 (Estate Tax Regulations), the regulations in part 31 (Employment Tax Regulations), the regulations in part 301 (Procedure and Administrative Regulations) and those rules (regulations) set forth in Part 601 (Statement of Procedural Rules) as found in 26 CFR §601.702(a)(1)(ii).

18. Contained in 26 CFR § 601.702(a), are three types of substantive regulation tables; substantive regulations for part 1 (Income tax regulations); substantive regulations for part 20 (Estate regulations); and substantive regulations for part 31 (Employee tax regulations). The Goltzes have relied on the belief that DIETZ would follow these Treasury Regulations:

- a. Treas. Reg. T. 26, Ch. I, Subch. A, Pt. 1 for part 1 - Income Tax and,
- b. Treas. Reg. T. 26, Ch. I, Subch. B, Pt. 20 for part 20 - Estate Tax and,
- c. Treas. Reg. T. 26, Ch. I, Subch. C, Pt. 31 for part 31 - Employee Tax.

19. The UNITED STATES OF AMERICA has failed to state a claim upon which relief can be granted in a Court of the United States arising under Article III of the Constitution for the United States of America in Law and Equity exercising the judicial Power of the United States under the authority of the United States in a District Court of the United States that has cognizance of this class of Cases.

20. The UNITED STATES OF AMERICA has not alleged any "legal relationship" between itself and the Goltzes.

21. The Internal Revenue Service is not part of the lawful government of the United States arising under the Constitution for the United States of America as lawfully amended by the qualified Electors of the several States.

22. DIETZ is not an Officer of the United States lawfully appointed and sworn in as a public officer of the United States.

23. The Goltzes have relied upon the adjudged decisions and opinions of the Supreme Court of the United States arising under Article III in Law and Equity of the Constitution for the United States of America and the Judiciary Act of 1789 for the class of cases and controversies.

24. The United State Department of Justice is an Agency under the unambiguous language of 5 U.S.C. § 105, and can not represent another agency being the IRS. See 26 CFR § 601.101.

25. The Goltzes reserve the right to add other affirmative defenses as the Goltzes are without Assistance of Counsel.

26. All of the alleged taxes are using the alleged Social Security Number(s) of Henry Dale Goltz, being “344-32-1549”, and of Evangelina Salinas Goltz, being “456-72-3650” as taxpayer IDs (IRS individual taxpayer identification number). A Social Security number can not be used as a taxpayer number unless one is an alien individual. See 26 CFR § 301.6109-1(a)(1)(ii) and 26 CFR § 301.6109-1(d)(3).

27. The Goltzes are not alien individuals, non-resident aliens, or any other type of aliens to the constitutional Republic wherein the Goltzes are domiciled.

PRAYER & MOTIONS

FOR REASONS STATED ABOVE, to wit: lack of implementing regulations to enforce the code sections cited, lack of evidence of a valid, legal assessment, lack of evidence of a “return” on which the “assessment” was based, lack of evidence in support of the allegation that the Goltzes are “taxpayers”, lack of evidence that the Goltzes are “persons made liable”, lack of evidence of a “Notice and Demand”, and lack of evidence of a certified debt upon which the alleged lien is based, the Goltzes move this honorable court to deny Plaintiff’s requests and, as a matter of law, issue an ORDER for Summary Judgment against the Plaintiff for failing to state a claim for which relief can be granted.

FURTHER, since there are no valid, legal assessments, based on a return, in existence and since “Notices of Levy” and “Notices of Lien” do not have any legal force and effect, except as to intimidate and imply that some action on the part of the recipient is required, the Goltzes MOVE this honorable court to enter such ORDERS as necessary to correct prior injustices as follows:

1. ORDER the Internal Revenue Service to refund to the Goltzes with interest those withheld, but un-assessed, funds shown on Form 1040 tax returns as follows: for 1999 - US\$9,191.43, for 2000 - US\$205.08, for 2003 - US\$2,071.90, for 2004 - US\$2,016.86, and for 2005 - US\$3,028.70. Funds which are not the subject of a valid, legal assessment cannot be collected. [26 USC 6201(a) and 26 USC 6501(a)];
2. ORDER the Internal Revenue Service to rescind, repeal, cancel, and annul **all** “Notices of Levy” issued by the Internal Revenue Service since 1 January 2000, including those recently sent to LUCENT PENSION SERVICE CENTER, CHARLES SCHWAB & CO INC, CHASE BANK OF TEXAS, FIRST FIDELITY BANK NA, FROST NATIONAL BANK, WACHOVIA BANK N.A., SECURITY SERVICE FEDERAL CREDIT UNION, and SOCIAL SECURITY ADMINISTRATION. Since several of these institutions have little or no relationship with the Goltzes, and only served to discredit our name and reputation;
3. ORDER the Internal Revenue Service to return to the Goltzes **all** funds, with interest, coerced by intimidation from banking and financial institutions and the Social Security Administration (SSA) to the Internal Revenue Service in the their mistaken response to “Notices of Levy” received by them with no valid, lawful basis, court order, or permission from the Goltzes to transfer their funds to the Internal Revenue Service [Frost Bank: US\$3,150.93, Security Service Federal Credit Union: US\$31.91, SSA US\$ TBD];
4. ORDER the Internal Revenue Service to return to the Goltzes **all** funds coerced by intimidation from, and mistakenly sent by, RMH, Inc. in response to an unlawful and continuing “Notice of Levy” on the property of Evangelina Salinas Goltz during 2004 and 2005, with no valid, lawful basis, court order, or permission from her for the transfer of her funds to the Internal Revenue Service;
5. ORDER the Internal Revenue Service to rescind, repeal, cancel, and annul, in writing with an affirmed copy to the Goltzes, **all** “Notices of Lien” unlawfully issued by the Internal Revenue Service since 1 January 2000 including those referring to “REAL PROPERTY” or “PERSONAL PROPERTY” and recorded in the public records of the County Clerk of BEXAR COUNTY, TX 78205;

6. ORDER the Internal Revenue Service to rescind, repeal, cancel, and annul, in writing with an affirmed copy to the Goltzes, **all** the so-called debts, taxes, penalties, statutory interest, and additions that they allege in their complaint;
7. ORDER the issuance of a permanent injunction prohibiting **all** future actions against the Goltzes by the Internal Revenue Service and its agents, including the U. S. Department of Justice, as regarding the so-called income tax, except in the rare situation where the Goltzes receive **income**, which is defined as gain from corporate activity in numerous United States Supreme Court cases [*Stratton's Independence v. Howbert*, 231 US 399; *Doyle v. Mitchell Brothers Co.*, 247 US 179; *Southern Pacific v. Lowe*, 247 US 330; *Eisner v. Macomber*, 252 US 189; *Merchant's Loan & Trust Co. v. Smietanka*, 255 US at page 517; *Clark v. U. S.*, 211 F.2d 100]; and
8. ORDER that the Goltzes have such further relief as this honorable court may deem just and proper, including its costs herein, for the persistent and groundless oppression, lawless behavior, and abuse of power exercised by the Internal Revenue Service and its agent, the U. S. Department of Justice in violation of law, codes, rules, and regulations since 1 January 2000.

By My Hand,

By My Hand,

Henry Dale Goltz (pro per)

Evangalina Salinas Goltz (pro per)

Affidavit of Truth

I, Henry Dale Goltz, do solemnly affirm that the "Answer" attached hereto is true and correct to the best of my knowledge and belief, so help me God.

Date: _____

Affirmed by: _____
Henry-Dale; Goltz

Affidavit of Truth

I, Evangalina Salinas Goltz, do solemnly affirm that the "Answer" attached hereto is true and correct to the best of my knowledge and belief, so help me God.

Date: _____

Affirmed by: _____
Evangalina; Goltz

Subscribed and sworn to before me this _____ day of September 2006.

SIGNATURE OF NOTARY OR AUTHORIZED OFFICIAL

Certification

This document has been mailed first class via USPS to the following:

Michelle C. Johns
Attorney, Tax Division
Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
214-880-9762

Date _____

Signature