

## CITES BY TOPIC: federal zone

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In 1818, the counsel for the Plaintiff United States stated in the U.S. Supreme Court ruling *U.S. v. Bevans* that:

"The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein," 3 Wheat., at 350, 351.

[*U.S. v. Bevans*, 16 U.S. 336 (1818), reaff. 19 U.S.C.A., section 1401(h).]

The above case establishes that the federal government only has jurisdiction over federal property that it owns within the states or coming under Article 1, Section 8, Clause 17 of the U.S. Constitution. In other places, it has no legislative or judicial jurisdiction. Places coming under the sovereignty or exclusive legislative jurisdiction of the federal government under 1:8:17 of the Constitution include the District of Columbia, federal territories, and enclaves within the state and we call these areas "the federal zone" throughout this book. When Congress is operating in its exclusive jurisdiction over the "federal zone", it is important to remember that the U.S. Government has full authority to enact legislation as private acts pertaining to its boundaries, and it is not a state of the union of States because it exists solely by virtue of the compact/constitution that created it. The U.S. Constitution does not say that the District of Columbia must guarantee a Republican form of Government to its own subject citizens within its territories. (See *Hepburn & Dundas v. Ellzey*, 6 US. 445(1805); *Glaeser v. Acacia Mut. Life Ass'n.*, 55 F. Supp., 925 (1944); *Long v. District of Columbia*, 820 F.2d 409 (D.C. Cir. 1987); *Americana of Puerto Rico, Inc. v. Kaplus*, 368 F.2d 431 (1966), among others).

Within the federal zone, there are areas where the Bill of Rights (the first ten amendments) applies and areas where it does not. The best place to go for a clarification of where it applies is the case of *Downes v. Bidwell*, 182 U.S. 244 (1901). Below are quotes from that case establishing that we have two national governments:

"The idea prevails with some -- indeed, it found expression in arguments at the bar -- that we have in this country substantially or practically two national governments; one, to be maintained under the Constitution, with all its restrictions; the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to exercise."

[*Downes v. Bidwell*, 182 U.S. 244 (1901), Justice Harlan, Dissent]

The U.S. Constitution limits federal government jurisdiction over the state Citizens using the Bill of Rights. *The federal government has unlimited powers over federal citizens within territories of the United States because it is acting outside of the Constitution.* Administrative laws are private acts, also called “special law”, and are not applicable to state Citizens. The Internal Revenue Code is administrative law. Here are some more quotes from **Downes** that establish our point:

“Loughborough v. Blake, 5 Wheat. 317, 5 L. ed. 98, was an action of trespass or, as appears by the original record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. **It was insisted that Congress could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia.** In the latter character, it was admitted that the power of levying direct taxes might be exercised, **but for District purposes only**, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' **inasmuch as the District was no part of the United States.** It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States. The fact that art. 1, 2, declares that 'representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers' furnished a standard by which taxes were apportioned, but not to exempt any part of the country from their operation. 'The words used do not mean that direct taxes shall be imposed on states only which are represented, or shall be apportioned to representatives; **but that direct taxation, in its application to states, shall be apportioned to numbers.**' That art. 1, 9, 4, declaring that direct taxes shall be laid in proportion to the census, was applicable to the District of Columbia, 'and will enable Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion to the census or enumeration referred to.' It was further held that the words of the 9th section did not 'in terms require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of the 2d section require that it shall be extended to all the states. They therefore may, without violence, be understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.'”

“**There could be no doubt as to the correctness of this conclusion, so far, at least, as it applied to the District of Columbia.** This District had been a part of the states of Maryland and [182 U.S. 244, 261] Virginia. It had been subject to the Constitution, and was a part of the United States[\*\*\*]. **The Constitution had attached to it irrevocably. There are steps which can never be taken backward. The tie that bound the states of Maryland and Virginia to the Constitution could not be dissolved, without at least the consent of the Federal and state governments to a formal separation. The mere cession of the District of Columbia to the Federal government relinquished the authority of the states, but it did not take it out of the United States or from under the aegis of the Constitution. Neither party had ever consented to that construction of the cession. If, before the District was set off, Congress had passed an unconstitutional act affecting its inhabitants, it would have been void. If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly, by carving out the District, what it could not do directly. The District**

still remained a part of the United States, protected by the Constitution. Indeed, it would have been a fanciful construction to hold that territory which had been once a part of the United States ceased to be such by being ceded directly to the Federal government.”

[ . . . ]

“Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform to the effect [182 U.S. 244, 279] that **the Constitution is applicable to territories acquired by purchase or conquest, only when and so far as Congress shall so direct**. Notwithstanding its duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan, Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing a much greater analogy to a British Crown colony than a republican state of America, and to vest the legislative power either in a governor and council, or a governor and judges, to be appointed by the President. It was not until they had attained a certain population that power was given them to organize a legislature by vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights.”

[Downes v. Bidwell, 182 U.S. 244 (1901) ]

Based on the above and further reading of **Downes**, we can reach the following conclusions about the applicability of the Constitution within United States the country:

1. That the District of Columbia and the territories are not states within the judicial clause of the Constitution giving jurisdiction in cases between citizens of different states;
2. That territories are not states within the meaning of Rev. Stat. 709, permitting writs of error from this court in cases where the validity of a state statute is drawn in question;
3. That the District of Columbia and the territories are states as that word is used in treaties with foreign powers, with respect to the ownership, disposition, and inheritance of property;
4. That the territories are not within the clause of the Constitution providing for the creation of a supreme court and such inferior courts as Congress may see fit to establish;
5. That *the Constitution does not apply to foreign countries or to trials therein conducted*, and that Congress may lawfully [182 U.S. 244, 271] provide for such trials before consular tribunals, without the intervention of a grand or petit jury;

6. That *where the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith, or retract the applicability of the Constitution to those territories.*
7. That Article 1, Section 8, Clause 1 of the Constitution authorizing duties, imposts, and excises (indirect taxes) applies throughout the sovereign 50 states, and not just on federal land. Here is the quote from **Downes** confirming that:

“In delivering the opinion [Loughborough v. Blake, 5 Wheat. 317, 5 L. ed. 98], however, the Chief Justice made certain observations which have occasioned some embarrassment in other cases. **'The power,' said he, 'to lay and collect duties, imposts, and excises may be exercised, and must be exercised, throughout the United States.** Does this term designate the whole, or any particular portion of the American empire? Certainly this question can admit but of one answer. It is the name given to our great Republic which is composed of states and territories. The District of Columbia, or the territory west of the Missouri, is not less within the United States than Maryland or Pennsylvania; and it is not less necessary, on the principles of our Constitution, that uniformity in the imposition of imposts, duties, and excises should be observed in the one than in the other. **Since, then, the power to lay and collect taxes, which includes direct taxes, is obviously coextensive with the power to lay and collect duties, imposts, and excises, and since the latter extends throughout the United States, it follows that the power to impose direct taxes also extends through-** [182 U.S. 244, 262] **out the United States.'** So far as applicable to the District of Columbia, these observations are entirely sound. So far as they apply to the territories, they were not called for by the exigencies of the case.”

8. Once a state is accepted into the union of states united under the Constitution, all lands in the state at that time are then covered by the Constitution in perpetuity excepting land under federal jurisdiction (enclaves). If the federal government then chooses to purchase state lands back after the state joins the union to set up a federal enclave, such as a military base or federal courthouse or national park, than the land that facility resides on that formerly was governed by the Constitution continues in perpetuity to be governed by the Constitution, even though it then becomes subject to the exclusive legislative jurisdiction of the federal government under Article 1, Section 8, Clause 17 of the Constitution.
9. States east of the Mississippi had very little land that continued under federal jurisdiction at the time they were admitted to the union as states of the Union. Therefore, nearly the entire state in these cases is covered by the Constitution. The opposite is true in states west of the Mississippi, where large portions continued under federal jurisdiction after these territories were admitted as states. Those areas that were federal enclaves at the date of admission which continue to this day to be under federal jurisdiction are not subject to the Constitution or the Bill of Rights.

10. Direct federal taxes and rights are mutually exclusive. You will note that when a new state is admitted to the Union, its lands then irrevocably have the Constitution attached to them and are covered by the Bill of Rights while at the same time, a new requirement to apportion all direct taxes is added in the former territory. The reason is that once people have **rights**, they become **sovereign** and at that point, it becomes impossible for the federal government under the Constitutional protections to encroach on those rights by trying to collect direct taxes because direct taxes then **must** be apportioned to each state as required under Article 1, Section 2, Clause 3, and Article 1, Section 9, Clause 4 of the Constitution. This is consistent with the Supreme Court's ruling in Knowlton v. Moore, 178 U.S. 41 (1900):

“Direct taxes bear immediately upon persons, upon the possession and enjoyment of **rights**; indirect taxes are levied upon the happening of an event as an exchange.”  
[Knowlton v. Moore, 178 U.S. 41 (1900)]

We now summarize the above findings graphically to make them crystal clear and useful in front of a judge and jury in court:

Table 4-3: Constitutional rights throughout the United States\* (country)

#	Type of property	Constitutional Rights	Example	Authorities
1	Territories	No	Puerto Rico, Virgin Islands, American Samoa, etc.	1. Downes v. Bidwell, 182 U.S. 244 (1901); 2. M'Culloch v. Maryland, 4 Wheat. 316, 422, 4 L. ed. 579, 605, and in United States v. Gratiot, 14 Pet. 526, 10 L. ed. 573
2	Federal enclaves <i>within</i> states:	NA	NA	NA
2.1	Ceded to federal gov. after joining union	Yes	Federal courthouses	Downes v. Bidwell, 182 U.S. 244 (1901);

#	Type of property	Constitutional Rights	Example	Authorities
2.2	Also enclaves at the time of admission	No	Indian reservations	Downes v. Bidwell, 182 U.S. 244 (1901);
3	Sovereign states	Yes	California, Texas, etc.	Downes v. Bidwell, 182 U.S. 244 (1901);
4	District of Columbia	Yes	District of Columbia	1. Downes v. Bidwell, 182 U.S. 244 (1901).  2. Loughborough v. Blake, 18 U.S. 317, 5 Wheat. 317, 5 L. ed. 98 (1820)
5	Foreign countries (nations)	No	Japan	1. Downes v. Bidwell, 182 U.S. 244 (1901).  2. Cook v. Tait, 265 U.S. 47 (1924)  3. M'Culloch v. Maryland, 4 Wheat. 316, 422, 4 L. ed. 579, 605 (1819)  4. United States v. Gratiot, 14 Pet. 526, 10 L. ed. 573  5. Springville v. Thomas, 166 U.S. 707, 41 L. ed. 1172, 17 Sup. Ct. Rep. 717 (1897)

**IMPORTANT:** Those areas listed above where there are no Constitutional rights are the *only* areas where direct income taxes under Subtitle A can be applied to individuals without apportionment and without violating (clauses 1:9:4 and 1:2:3 of) the Constitution. Everyplace else, it isn't a tax, but a *donation*.

The federal zone, or federal "United States\*\*", is the area of land over which the Congress exercises an unrestricted, exclusive legislative jurisdiction. The Congress, however, does *not* have unrestricted, exclusive legislative jurisdiction over any of the 50 sovereign states. It is bound by the chains of the Constitution. This point is so very important, it bears repeating throughout the remaining chapters of this book and it also explains why the use of the word "State" in the Internal Revenue Code doesn't by default (26 U.S.C. §7701(a)(9) and (10))

mean one of the 50 sovereign states of the union. As in the apportionment rule for direct taxes and the uniformity rule for indirect taxes, Congress cannot join or divide any of the 50 sovereign states without the explicit approval of the Legislatures of the state(s) involved. This means that Congress cannot unilaterally delegate such a power to the President. Congress cannot lawfully exercise (nor delegate) a power which it simply does not have.

For further evidence of what constitutes the “federal zone” and a “State” within the IRC, we refer you to the fascinating analysis found in section 5.6.12.2 entitled “The definition of the word ‘state’”, key to unlocking Congress’ ruse and the limited application of the Internal Revenue Code”.

Lastly, let us carefully clarify the important distinctions between “States”, “territories”, and “states” in the context of federal statutes to make our analysis crystal clear. Remember that federal “territories” and “States” are synonymous as per 4 U.S.C. §110(d). Keep in mind also that Indian reservations, while considered “sovereign nations” are also federal “States”:

Table 15: Attributes of "State"/"Territory" v. "state"

	<b><i>Attribute</i></b>	<b><i>Authority</i></b>	<b><i>“State” or “Territory” of the “United States”</i></b>	<b><i>“state”/ Union state</i></b>
1	Federal government has “ <u>police powers</u> ” (e.g. criminal jurisdiction) here?	<u>Tenth Amendment</u> to U.S. Constitution	Yes	No
2	Constitution Article 1, Section 8, Clause 17 jurisdiction?	U.S. v. Bevans, <u>16 U.S. 336</u> (1818)	Yes	No
3	“foreign state” relative to the federal government?	Black’s Law Dictionary, Sixth Edition definition of “foreign state” and “foreign laws”	No	Yes
4	No “legislative jurisdiction” (federal statutes, like IRC) jurisdiction without state cession?	<u>40 U.S.C. §255</u>	No	Yes



	<b><i>Attribute</i></b>	<b><i>Authority</i></b>	<b><i>“State” or “Territory” of the “United States”</i></b>	<b><i>“state”/ Union state</i></b>
5	Federal courts in the region act under the authority of what Constitutional provision?:	Constitution Articles II and III.	<u>Article II</u> <i>legislative</i> courts (no mandate for trial by jury)	<u>Article III</u> <i>Constitutional</i> courts (mandatory trial by jury)
6	Statutory diversity of citizenship applies here?	<u>28 U.S.C. §1332</u>	Yes	No
7	Constitutional diversity of citizenship applies here?	Article III, Section 2	No	Yes
8	Citizenship of persons born here:	<u>8 U.S.C. §1401</u> , <u>8 U.S.C. §1101(a)(22)</u> (B), <u>8 U.S.C. §1101(a)</u> (21)	Statutory “U.S. citizen	“national”
9	Bill of rights (first ten amendments to the U.S. Constitution) applies here?	<u>Downes v. Bidwell</u> , <u>182 U.S. 244</u> (1901)	No	Yes
10	Listed in Title 48 as a “Territory or possession”?	<u>Title 48, U.S. Code</u>	Yes	No
11	Local governments here have “sovereign immunity” relative to federal government?	<u>28 U.S.C. §1346(b)</u>  <u>Eleventh Amendment</u> to U.S. Const.	No	Yes

Your ZIP Code determines which ZIP Code region you live in. ZIP Code regions are federal areas and are part of the federal zone. The IRS has adopted the ZIP Code regions as IRS regions. If you accept mail that has a ZIP Code on it, you are treated as though you reside in a federal territory and thus are subject to the IRS and all other municipal laws of the District of Columbia.

