

# Evolution of the Jurat in National and International Individual and Corporate Income Taxes: A Progress Report

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# Outline of Remarks

1. Introduction and Some Assumptions -
2. Numbers, Takings, Notaries, Jurats –
3. Jurats around the World –
4. Jurats of the American States –
5. Discussion and Some Outstanding Issues

# 1.0 Introduction: Purpose & Some Predicates I

The purpose of this presentation is to focus on what a taxpayer attests to when signing a tax return around the world. Understanding this and penalties creates realism in tax design. More attention needs to be paid to these matters if we want to get serious about matching revenues to spending and not print monies. Today's presentation is a progress report.

[See: [www.Andrew.cmu.edu/user/rs9f](http://www.Andrew.cmu.edu/user/rs9f) for current power point and paper. ]

1) Especially corporations are obligated under *Dodge vs. Ford Motor Company, 1919* to act in the interests of shareholders, i.e. minimize tax payments; signatories get rewarded by corporate compensation committees to accomplish this. Behavioral public finance?

2) Filing a tax return leads to a cash outflow from a person/corporation to the government, while disclosing financial results informs stakeholders (current/possible owners) for inflow/investment purposes. Different audiences, different mechanisms and different numbers result. No surprise here.

Cash outflows are bad, cash inflows are good.

# Predicates II: Elements of Tax System Design

## Answer 8 Questions:

1. *Who is the taxpayer?*
2. *What is being taxed?*
3. *How much is 'it' being taxed?*
4. *Where is 'it' being taxed;*
5. *When is 'it' being taxed?*
6. *What are the privacy assurances surrounding taxation?*
7. *Why is it being taxed? Income as barometer to finance services?*
8. *What are the financial and personal liberty consequences of various answers to the questions 1-7? Fines, penalties, and jail time.*

# Predicates III: MT/AMT Evolution because of equal treatment of equals and revenue/budget issues

- US MT was an addition to regular tax : enacted in 1966 for individuals, in 1976 for corporations. Lore has it was Stanley Surrey's idea, but Edwin Cohen got it done.
- US AMT devised in 1978 as dual tax system for individuals
- US AMT devised in 1986 as dual tax system for corporations
- 2017 TCJA dramatically limited the reach of AMT for individuals, repealed the corporate AMT and replaced it with GILTI etc.
- Since 2015 OECD has been generating pressure for world-wide AMT at 15% which Biden Administration endorses (but not yet passed/implemented). As of November, 141 countries "signed up." But 10 of 50 CRS defined tax havens (with median CNI rate of 5% vs. 15%) have not.

# Predicates IV: About Lists and Where/Why Issues?

- World Bank identifies more than 200 countries
- $200 * (200-1)/2 = 19,900$  bilateral tax treaties to compare (!)
- CRS maintains a list of 50 “Tax Havens” with low or zero income tax rates, are secretive, and have “relaxed” attitudes towards document sharing and tax administration. Some also include Wyoming and S. Dakota for the same reasons.
- Other Groupings:
  - G7
  - G20
  - EU not in G20
  - OECD

## 2.0 Record Keeping, Numbers, and Takings

- Notary republics date back to 2750 BC in Egypt, and served to authenticate communications from the King to people in terms of
  - Letters
  - Proclamations
  - Tax documents
- Seal of Wax, use of ring impression to prove authenticity (no phishing)
- Modern notaries do the same thing as done by their predecessors; they are trained, licensed, and bonded.
- Jurat differs from an acknowledgement in that latter merely says you willing signed a statement, but former involves matters of truth.

# 2.0 All About Jurats: 1040 & 1120 US Jurats Today

[read out loud with me, please]

**Sign Here**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return?  
See instructions.  
Keep a copy for  
your records.

Your signature	Date	Your occupation	If the IRS sent you an Identity Protection PIN, enter it here (see inst.) ▶ <input type="text"/>
Spouse's signature. If a joint return, <b>both</b> must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) ▶ <input type="text"/>
Phone no.	Email address		

<b>Table 1 Examples</b>	<b>Gross revenues (\$1,000s)</b>	<b>Cost (\$1,000s)</b>	<b>Net Income (\$1,000s)</b>	<b>Penalty Consequences</b>
<b>“true, complete and correct”</b>	274,515	217,104	57,411	None
<b>“mistake” 1</b>	<u>1</u> 74,515	217,104	-42,589	Fine/Jail
<b>“mistake” 2</b>	27,451. <u>5</u>	217,104	-189,652.5	Fine/Jail

## 2.1 Origins: US Corporate Jurat (1909)

- 1909 federal Corporate Jurat on 1120 characterized as an “affidavit” and was signed and sworn necessarily by the president and treasurer of the corporation before a federal revenue agent, notary, or judge who had to co-sign the return;
- “We, the undersigned, president and treasurer of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return, including the accompanying schedules and statements, has been examined by him and is, to the best of his knowledge and belief, a true and complete return made in good faith, for the taxable period as stated.”
- 1909 Takeaways: (1) signed by President and Treasurer, (2) best of knowledge and belief, (3) true, (4) complete, and (5) made in good faith; no penalties of perjury, *per se*.

## 2.2 Origins: US Individual Return Jurat (1913)

- Also an “affidavit” sworn and co-signed by taxpayer and a revenue agent, notary or judge
- “I solemnly swear (or affirm) that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all gains, profits, and income received by or accrued to me during the year for which the return is made, and that I am entitled to all the deductions and exemptions entered or claimed therein, under the Federal Income-tax Law of October 3, 1913
- 1913 Takeaways: (1) co-signed by independent third party, (2) best of knowledge and belief, (3) true, (4) complete; Silent on: “accurate” silent on “made in good faith”
- Again, note that current 1040 and 1120 jurat adds “correct” and adds “under penalty of perjury”, but not sworn before and not co-signed by a revenue agent etc.

## 2.3 Bad acts and penalties on original 1040 and 1120 returns, and in instructions

- Failure to file; originally: penalties of up to 25% surcharge, from \$20 to \$1,000 and/or 1 year of jail time; by 1924, up to \$10,000 penalty, and/or 1 year; by 1935 penalty surcharge on sliding scale: 5% to 25%.
- False/Fraudulent Information; fine of up to 50% penalty surcharge and capped at \$10,000 and/or 5 years in jail
- Underpayment/deficient payment due to negligence; interest at 6%/year and 50% penalty surcharge. [No threat of jail time for underpayment due to negligence]
- How to distinguish between negligent vs. fraudulent?

## 2.4 Interpreting fines and loss of liberty over time

- What is \$10,000 in 1924 worth today? \$166,187 (BLS calculator)
- In 1913, life expectancy was 53 years of age; what is  $5/(53-22)$ ?  
16%
- In 2022, life expectancy is 79 years of age; what is  $5/(79-22)$ ?  
8.7%
- What is 16% of 57? 9 years (!)
- Can anybody find out the extent of incarceration of fraudulent tax offenders in detail from the Commissioners Annual Report?

# 3.0 Exploring Jurats on Tax Returns around the world: Research Methodology

## Methodology:

U.S. Jurats are the benchmark in 2020

Comparison to 2020 Tax Haven, G7/G20 and the EU countries

## Variables:

U.S. Jurat Components

Accurate

Complete

Correct

True

## Sources examined:

CCH, World Bank, U.N. Data, E.U. Data, Deloitte, IRS, and government websites

## 3.1 Some Deconstruction of the components of U.S. Jurats as a Framework for Analysis

### Under Penalty of Perjury Perjury

Perjury is a “crime of telling a lie in court”

[\(Oxford Learner's Dictionary\)](#)

Under IRC §7206(1), any person who “willfully makes and subscribes any return, statement or other document or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe true and correct as to every material matter” has committed a felony [\(Tax Crimes Handbook\)](#).

## 3.2 Financial and legal tax system penalties in the U.S.

### ❑ Fraud or False statements

**Persons** upon whom this penalty is imposed shall be guilty of a felony and, upon conviction, face a fine of not more than **\$100,000 (\$500,000 in the case of a corporation), imprisonment of not more than three years, or both (together with the costs of prosecution)**. This penalty also applies to fraudulent and false activities in connection with offers to compromise a tax liability under IRC § 7122 or a closing agreement under IRC § 7121 ([Tax Crimes Handbook](#))

## 3.3 Meaning of each Component

**To the best of my knowledge means** “as truthfully as possible”

**Earlier interpretation:** “... a person thinks something is true but there may be something he or she does not know which makes it untrue”

The interpretations are different.

Source: [Merriam-Webster](#)

## 3.3 Meaning of each Component II

**Accurate means** “correct and true in every detail”

**Complete means** “including all parts, etc. that are necessary, whole” e.g. “To greatest degree possible”

**Correct means** “accurate or true, without any mistakes”

**True means** “corrected with facts rather than things that have been invented or guessed”

Source [Oxford Learner's Dictionaries](#)

Table 2: CRS Tax Havens			
	CNI Rate	Country	CNI Rate
Andorra	0.100	Liechtenstein	0.125
Anguilla	0.000	Luxembourg	0.249
Antigua and Barbuda	0.250	Macao	0.000
Aruba	0.250	Maldives	0.150
Bahamas	0.000	Malta	0.350
Bahrain	0.000	Marshall Islands	0.000
Barbados	0.055	Mauritius	0.150
Belize	0.000	Miue	0.000
Bermuda	0.000	Monaco	0.310
British Virgin Islands	0.000	Montserrat	0.000
Cayman Islands	0.000	Nauru	0.100
Cook Islands	0.200	Netherlands Antilles	0.000
Costa Rica	0.300	Niue	0.000
Cyprus	0.125	Panama	0.250
Dominica	0.250	Saint Kitts and Nevis	0.330
Gibraltar	0.100	Saint Lucia	0.300
Grenada	0.280	Saint Vincent and the Grenadines	0.300
Guernsey	0.000	Samoa	0.270
Hong Kong	0.000	Seychelles	0.330
Ireland	0.125	Singapore	0.170
Isle of Man	0.000	Switzerland	0.211
Jersey	0.000	Tonga	0.250
Jordan	0.200	Turks and Caicos Islands	0.000
Lebanon	0.170	United States Virgin Islands	0.210
Liberia	0.250	Vanuatu	0.000

## Table 2 (cont.) G7 countries

Canada 1
France 2
Germany 3
Italy 4
Japan 5
United Kingdom 6
United States 7

## G20 Countries

Argentina 1
Australia 2
Brazil 3
Canada 4
China 5
France 6
Germany 7
India 8
Indonesia 9
Ireland 10
Italy 11
Japan 12
Mexico 13
Republic of Korea 14
Russia 15
Saudi Arabia 16
South Africa 17
Turkey 18
United Kingdom 19
United States 20

**Table 3: Jurat Characteristics of G20 2020 Personal Income Tax (PIT)Forms which could be located**

		PIT Jurat:	PIT Jurat:	PIT Jurat:	PIT Jurat:
G20 Country	Bank_code	Accurate?	Complete?	Correct?	True?
Australia	AUS	0	0	1	1
Canada	CAN	0	1	1	0
China	CHN	0	1	0	0
France	FRA	0	0	0	0
India	IND	0	1	1	0
Ireland	IRL	0	0	1	0
Italy	ITA	0	0	0	0
Russia	RUS	0	1	0	1
Saudi Arabia	SAI	0	0	0	0
South Africa	ZAF	0	0	1	1
Turkey	TUR	0	0	0	0
United Kingdom	GBR	0	1	1	0
United States	USA	0	1	1	1
% Countries with PIT Jurat characteristic		0%	46%	54%	31%

# Table 4: Jurat Characteristics of G20 2020 Business Tax Forms (CNI and VAT)

		CNI/VAT Jurat:	CNI/VAT Jurat:	CNI/VAT Jurat:	CNI/VAT Jurat:
G20 Country	Bank_code	Accurate?	Complete?	Correct?	True?
Australia	AUS	0	0	1	1
Canada	CAN	0	1	1	0
China	CHN	0	1	1	1
France	FRA	0	0	0	0
Germany	DEU	0	0	0	0
India	IND	0	1	1	0
Indonesia	IDN	0	0	0	0
Ireland	IRL	0	1	1	0
Italy	ITA	0	0	0	0
Japan	JPN	0	0	0	0
Russia	RUS	0	1	0	1
S Korea	KOR	0	0	0	1
Saudi Arabia	SAI	0	0	0	0
South Africa	ZAF	0	0	1	1
Turkey	TUR	0	0	0	0
United Kingdom	GBR	0	1	1	0
United States	USA	0	1	1	1
% Countries with CNI/VAT Jurat Characteristic		0.0%	35.0%	40.0%	30.0%

Table 5: Identified Business Jurat Characteristics of Tax Havens CNI Rates > 0.0 and Located:  
Panel A

Panel A	Country	Code	Accurate ?	Complete?	Correct?	True?	Tax Foundation CNI Rate
1	Antigua and Barbuda	ATG	0	0	1	1	0.250
2	Barbados	BRB	0	1	1	1	0.055
3	Dominica	DMA	0	0	1	1	0.250
4	Gibraltar	GIB	0	1	1	0	0.100
5	Grenada	GRD	0	0	1	1	0.280
6	Nauru	NRU	0	0	1	1	0.100
7	Seychelles	SYC	0	0	1	1	0.330
8	St Christopher and Nevis	KNA	0	0	1	1	not available
9	St Lucia	LCA	0	1	1	1	0.300
10	US Virgin Islands	VIR	0	1	1	1	0.210
	% with jurat characteristic		0%	40%	100%	90%	

# Table 6: Business Jurat Characteristics of EU-Non G20 Countries

Non G20 EU Countries	Accurate?	Complete?	Correct?	True?	CNI Rate
Austria	0	0	1	0	.25
Belgium	1	0	0	1	.2958
Bulgaria	0	0	0	0	.10
Croatia	0	0	0	1	.18
Czech Republic	0	0	0	0	.
Denmark	0	0	0	0	.22
Estonia	0	0	0	0	.20
Finland	0	0	0	0	.20
Greece	0	0	0	0	.28
Hungary	0	0	0	0	.09
Lithuania	0	0	0	0	.15
Luxembourg	0	1	0	1	.249
Netherlands	0	0	0	0	.25
Poland	0	0	0	0	.19
Portugal	0	0	0	0	.315
Republic of Cyprus	0	0	0	0	.125
Romania	1	1	0	0	.16
Slovakia	0	0	0	0	.21
Slovenia	0	0	1	1	.19
Spain	0	0	0	0	.25
Sweden	0	0	0	0	.214
<b>% with Jurat Characteristic</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>19%</b>	

#### 4.0 Table 7: The U.S. States: PIT and CNI/Franchise CNI/Franchise

<b>variable</b>	<b>tax_form_found (out of 50)</b>	<b>count</b>	<b>percentage</b>
<b>personal_complete</b>	42	42	100.00%
<b>personal_accurate</b>	41	0	0.00%
<b>personal_correct</b>	42	42	100.00%
<b>personal_true</b>	42	42	100.00%
	<b>tax_form_found (out of 50)</b>	<b>count</b>	<b>percentage</b>
<b>corporate_complete</b>	48	48	100.00%
<b>corporate_accurate</b>	48	0	0.00%
<b>corporate_correct</b>	48	48	100.00%
<b>corporate_true</b>	48	48	100.00%

Sources: CCH, IRS, and state government websites

## 5.0 Discussion and Comments on Some Outstanding Issues:

### 5.1 World Wide AMT

- Granularity of OECD proposal not at the tax form, jurat, penalty, fees, and jail time levels as best we can find
- Easy to be pessimistic about raising the bar unless the 8 questions get answered operationally, and uniform enforcement of tough jurats; compliance matters.
- Audit rates are generally low now, especially in the US, and there are no prospects for raising them in the US, even though they return more dollars than audits cost
- Automation not really a solution yet at the IRS; TIGA reminds us that there have been 5 failed attempts to modernize the individual income master file system.

## 5.2 About 2021 and 2022 Green Book Proposals & 446 (b)

- While the two policy documents claim to be ‘general explanations’, they do not clearly distinguish between things which can be done administratively, and those requiring amendments to the IRC
- Our reading of IRC 446 (b) empowers the Secretary of the Treasury to exercise regulatory authority on the representation problem:

*“If no method of accounting has been regularly used by the taxpayer, or if the method used does not clearly reflect income, the computation of taxable income shall be made under such method as, in the opinion of the Secretary, does clearly reflect income.”*

## 5.2 About 2021 and 2022 Green Book Proposals

The banking and cryptocurrency reporting proposals would seem to us to fit within the discretionary authority of the Secretary. Were she to find that in these areas, income is not clearly stated overall, and promulgate new rules through the Federal Register which, after public comment, they could be put in place. There will be some unhappiness, but seems doable. I doubt the Supreme Court would be asked to adjudicate.

Ditto for authorizing Treasury to promulgate its own financial accounting rules for use via M-3 for tax purposes. That is, decouple from FASB, and eliminate the problems of dual Congressional jurisdiction which creates IRS/SEC tensions. Note: three sets of books is good for billable time, not bad.

## 5.3 Tax Administration in a Mercantilist World

- Sovereignty generally thought to require bilateral negotiations to accomplish acceptable coordination of domestic and international tax issues. Again, with  $n$  countries, this results in  $n(n-1)/2$  treaties. Good for billable time, but more revenues?
- Another way to view the world today is that it is increasingly mercantilist in form and substance. Design problem then entails how US can convince its own multinational companies to report and disclose from overseas.
- Singular control by tax authority of financial and tax accounting is a start. Deeming a return not filed unless foreign schedules and underlying financial reports completed under Treasury proscribed US rules (rather than under audit) would be a start. Note impact in PRC.

## 5.4 How to Get From Here to a More Uniform World

- Current IRS oversight largely left to the IRS Oversight Commission which was enacted in late 1990's.  
See 26 USC 7802
- Basic idea was to establish a Board of Directors
- It has remained inactive with no appointed quorum for over a decade.
- Presidents have not nominated members, nor has Congress insisted on filling out its membership.
- US can take a leadership role through exercise of executive branch authority subject to Congressional disagreement. This change in confirmation process would require law change.

## 5.5 For the skeptical, see Table 8 below

It's reasonable to surmise that non-signatories and/or low tax rate countries will be able to exploit many current tax avoidance mechanisms.

If you still are not convinced, look at table in next slide.

Take a close look at the list of tax havens ordered by the number of self-reported tax administrators, smallest to largest, and also indications of airports AND internet availability.

<b>Table 8: Ordered CRS Tax Havens List (30/50)</b>	<b>2019 OECD Count of Tax Administrators</b>	<b>World Bank Population 2019</b>	<b>Tax Foundation CNI Rate</b>	<b>Number Airports</b>	<b>% Population on Internet</b>
Nauru	16	10,764	0.100	1	60.7%
Montserrat	23	2,833	0.000	NA	56.7%
Turks and Caicos Islands	25	38,194	0.000	8	NA
Macau	28	517,789	0.000	1	82.0%
São Tomé and Príncipe	51	61,155	0.000	NA	29.0%
Dominica	76	71,808	0.250	2	71.9%
Grenada	83	112,002	0.280	3	57.1%
Tonga	108	104,497	0.250	6	43.2%
Saint Kitts and Nevis	127	52,834	0.330	2	85.2%
Antigua and Barbuda	129	97,115	0.250	3	80.5%
Saint Vincent and the Grenadines	129	110,593	0.300	6	65.4%
Saint Lucia	171	182,795	0.300	2	50.0%
Samoa	214	197,093	0.270	4	33.7%
Belize	240	390,351	0.000	47	46.0%
Maldives	297	530,957	0.150	9	53.5%
Barbados	316	287,021	0.055	1	81.5%
Seychelles	324	97,625	0.330	14	57.3%
Malta	368	504,062	0.350	1	78.5%
Cyprus	757	1,198,574	0.125	NA	80.1%
Republika Srpska	848	NA	0.000	NA	NA
Liberia	894	4,937,374	0.250	29	7.8%
Costa Rica	942	5,047,561	0.300	161	70.2%
Switzerland	1,178	8,575,280	0.211	63	93.2%
Luxembourg	1,273	620,001	0.249	2	94.5%
Mauritius	1,458	1,265,711	0.150	5	55.5%
Singapore	1,898	5,703,569	0.170	9	83.7%
Kyrgyz Republic	2,186	2,309,235	0.000	28	36.6%
Hong Kong	2,811	7,507,400	0.000	2	89.3%
Ireland	6,619	4,934,340	0.125	40	83.5%
Taiwan	8,333	21,920,626	0.200	37	92.4%

## 5.6 Our/My To Do List

- Meet in person with my co-authors [for the first time]
- Locate and review outstanding tax forms and tax statutes; things are hard to find.
- Locate a friendly university law library or law firm library that has CCH International, and other subscriptions
- Locate/review the OECD rules to their most granular level
- Lots of questions arise by reading tax returns. Examples:
  - Example: why do current 1040 and 1120 not state potential fines and penalties on the forms or in the instructions? FOIA should be able to determine why. Forms design and oversight are public acts.
  - Time series analysis of fines, interest payments, and loss of liberty should be possible especially as a result of court actions.