

# ***Self-Employment***

## **An Effective Path for War Tax Refusal**

**T**his publication is one of a series of “practicals” that offer ideas, tips, and information for individuals who want to cut off their financial support for the U.S. war machine or are currently practicing war tax resistance. Earlier pamphlets in this series discuss how to control income tax withholding and whether or not to file an income tax return. The full list of the “Practical Series” appears at the end of this text or under the Resources/Publications tabs at [nwtrcc.org](http://nwtrcc.org).

Since the 1940s, the U.S. government and the Internal Revenue Service (IRS) have effectively enrolled employers in the tax collection system through payroll withholding, mandatory reporting, and salary levies. While the U.S. tax system is called “voluntary,” each year it seems more difficult to prevent assessment and collection of taxes, particularly for people who work for wages and salaries.

The experience of war tax resisters over recent decades indicates that those who hope to prevent collection of military taxes over an extended period of years may be more successful earning income through self-employment. This choice means seeking paid work where you do not have to fill out a W-4 form and participate in the withholding system. Opportunities for working independently are numerous and have grown exponentially with the expansion of the internet. Examples are offered in this booklet.

Your choices may depend on your style of resistance; self-employment offers the ability to:

- better regulate your income and deductions if you are trying to keep your income under the taxable level;
- avoid income tax withholding in order to have taxes to resist if you file an income tax return;
- find opportunities for earning income that will not be reported to the IRS, which is advantageous for those who choose not to file a tax return (see *Practical WTR #2*);
- make it more difficult for the IRS to garnish earnings.

*Includes:*

*Strategies to Match Your Goals*

*Sole Proprietor and Other Models*

*Levies and Avoiding Collection*

*Health care and retirement*

*Common Areas of Self-Employment*

Some of the strategies covered in this pamphlet are not legal. Civil disobedience should be a conscious, as well as a conscientious choice. Readers who have any doubts or concerns about the legality of particular actions or their likely or potential consequences should consult an experienced war tax counselor. Advice from accountants or attorneys may be helpful in setting up a cooperative or corporation or in clarifying legal home business deductions; generally they will not offer advice about war tax resistance specifically.

## TWO BASIC STRATEGIES

In this section we'll discuss two divergent income and reporting strategies that are used to avoid paying military taxes through self-employment. It should be noted that in discussing "taxable levels," this publication refers to the federal income tax level, which is significantly higher than that for Social Security and other self-employment taxes. Gross earnings of \$600 up to \$118,500 are subject to Social Security taxes (2015 figures).

- 1) Using one strategy, most of your income comes directly from individuals not required to report, or businesses that choose to ignore reporting requirements. You do not file returns and do not report your income. If you get income at taxable levels, this route is illegal, but it can work effectively in practice.
- 2) In the second strategy, much of your income may come from other businesses and organizations that report these payments to the IRS, as required by law. You may file returns, but resist the payment of military taxes; you may ignore filing requirements, and wait to see whether the IRS discovers you and pursues you effectively; or you may structure your income and economic status in such a way that you can file returns, but no military taxes will be due.

### **STRATEGY #1 — Income from sources that do not report it to the IRS**

Generally those who seek this type of income are seeking to remain outside the system and choose not to file. Others may receive some reported income and some not in order to better manage their income and stay under taxable levels even if they file (see *Practical #5, Low Income, Simple Living*).

If most of your income is for goods or services provided to individuals or businesses that don't report these payments to the IRS, the records at IRS won't show the taxable income you receive. A number of self-employment businesses may



*David Waters and his son Oliver make their living by doing carpentry and construction work in Alabama.*

provide services to customers of this type. These include:

- building tradespeople specializing in residential repairs and remodeling,
- housekeeping, home child care, elderly and special needs care, when provided for families who prefer not to deal with IRS mandated record keeping and reporting,
- some kinds of therapists and counselors in private practice,
- music instruction, tutors, artists and craftspeople marketing directly to consumers through advertising, word of mouth, fairs and festivals,
- computer repair, IT consulting,
- selling products online,
- taxi driving, courier delivery, etc.

Many war tax resisters have found it feasible to work in businesses like these for years, making a living without ever reporting income to the IRS. There are a few caveats:

- The government needs revenue and wants every worker in the withholding system. The IRS and state and federal labor departments have many guidelines and auditing powers to pressure businesses and organizations to hire workers as employees rather than independent contractors.
- The advent of the Affordable Care Act (ACA) caught many nonfilers off guard and pushed more people to file tax returns in order to qualify for health insurance. The same can be true when a nonfiler has to participate in the financial aid system to send a child to college.
- The IRS offers a reward of up to 10% for original information leading to collection of taxes on unreported income; vindictive personal reasons or a sense of civic responsibility could lead someone who knows about your war tax refusal to report you (rare but possible).
- If you get much of your income from one source that pays you “under the table” and ignores IRS reporting requirements, it is possible that these payments could at some time be discovered in an IRS audit of the payer, and that could lead to IRS enforcement action against you.

A person who gets taxable income and doesn't file returns can take some long term precautions that will make it difficult for the IRS to find out that there was taxable income, or determine the amount of it for a civil claim or a criminal prosecution. These are some precautions that can be taken:

- accept and encourage payments in cash, or barter arrangements;
- consider negotiating some payments to third-party merchants (like credit card companies and PayPal); because reporting is required only if those payments exceed \$20,000 for the year and represent more than 200 transactions. There is something of a loophole as regards the "payments of \$600 and over" requirement for a 1099-MISC and nervous employers may file the forms anyway.
- cash large payment checks at the payer's bank, rather than depositing them in one's own account;
- maintain several checking accounts that don't pay interest, distribute deposits among them and don't establish paper trails leading from one account to another;
- change banks every few years, by withdrawing and depositing in cash, without leaving a paper trail from one bank to the next;
- be aware that financial institutions are required to report to the IRS any single deposit, withdrawal, or other transaction, or aggregation of transactions in one day, that equals or exceeds \$10,000.
- use appropriate discretion in talking with friends and acquaintances about what you are doing.

This strategy for refusing war taxes is simple: you receive most of your income from sources that don't report to the IRS; you ignore the reporting requirements of Federal and state taxing agencies; you make your social contribution according to your own conscience.

It is illegal to receive taxable income and not file a tax return. The criminal penalty for willfully not filing is up to one year in prison and a \$100,000 fine for each offense (a federal misdemeanor). There are other civil and criminal penalties that might apply. Nevertheless, this form of war tax refusal has worked effectively for many people willing to take a modest level of personal risk in the name of conscience. Because it's done quietly without formal reporting, we can't estimate the number of those who are doing it, but we know there are many.

Two or three cases since 2010 where resisters associated with the antiwar movement were criminally prosecuted for tax evasion involved under-reporting income when they filed tax re-

*A person who gets taxable income and doesn't file returns can take some long term precautions that will make it difficult for the IRS to find out that there was taxable income,*

turns. Criminal prosecution among people in the organized war tax refusal movement is exceedingly rare, but if the IRS receives 1099s or W-2s reporting your income, be cautious in choosing not to file or to leave it off your tax return.

If you do not file, it is advisable to keep annual income records for your own use and your protection in case you are ever confronted by IRS tax enforcement. Fill out a 1040 with any supporting documents and put it in your files. Life circumstances change, and some nonfilers find they need to prove their income for purposes such as education-related financial aid applications. While unpredictable, the IRS may come calling years later if you pop up on their radar because of some reported income since there is no statute of limitations for nonfilers. Backup records will help establish the most accurate numbers if needed. (See *Practical #2, To File or Not File*)

### **STRATEGY #2 – Income from reported sources**

If much of your self-employment income is reported to the IRS at the end of the year, usually on 1099 forms, devising a war tax resistance strategy that will work effectively for you will depend to a great deal on your motivations. While you may be more vulnerable to collection than with Strategy #1, you still have the advantages of being able to regulate your income and of not being subject to withholding. You are responsible for any taxes due because they are not withheld from your paycheck, thus you have easier choices about how much you want to resist than a salaried employee.

The IRS constantly seeks to weave its net of regulations tighter in order to prevent people from avoiding taxes through self-employment or small business structures. If you wish to be self-employed, you may operate as a sole proprietor, or you may incorporate your business under state law and then work as an employee of your own corporation. These options are discussed below, but because the intricacies of the law (which vary from state to state) and regulations are complex and specific as regards structuring a business, we can't summarize all of them in this pamphlet. The person who wants to devise an effective self-employment strategy in this area will need to be self-educated about laws and regulations that apply to their particular vocational circumstances.

The IRS offers a wide variety of free publications, which contain the IRS interpretation of laws and regulations covering all the issues involved. In this pamphlet we will refer to the most relevant IRS publications, and summarize a few basic ideas and suggestions derived from reading them.

*If you do not file, it is advisable to keep annual income records for your own use and your own protection in case you are ever confronted by IRS tax enforcement.*

Many traditional self-employment vocations get most of their income from service or sales to other businesses and organizations. These clients are vulnerable to intrusive regulation and auditing by IRS. Some self-employment businesses are vulnerable to reporting requirements because of licensing or other government regulation.

Vocations in these categories include:

- writing, editing, website design, search engine evaluation
- graphic design and photography
- bookkeeping, accounting, and secretarial services
- architects and engineers
- lawyers, psychotherapists
- physicians, nurses, and dentists whose income comes largely from insurance payments
- conventional farming and fishing
- moving and trucking
- dog walkers, baby sitters, house sitters
- house cleaners and painters
- retail stores, service shops, salespeople
- meal preparation services
- organizers and canvassers for organizations

*Some self-employment businesses are vulnerable to reporting requirements because of licensing or other government regulation.*

## SOLE PROPRIETORS

As a sole proprietor you operate under your own name or an assumed business name. You are supposed to report your business income and, more importantly, deductible business expenses on Schedule C and other forms that supplement your individual 1040 Income Tax Return. The contractual self-employment relationship can be advantageous to client businesses that use such services, because they can avoid paying employee tax and benefit obligations and avoid much of the record keeping burden involved in hiring wage and salary employees. To prevent sole proprietors and the businesses they work for from using this relationship to avoid federal taxes, the IRS tries to close loopholes and tighten the regulations that define and govern employer, employee and independent contractor relationships.

If your self-employment income comes from other businesses and organizations, most will probably report these payments on IRS Form 1099 - MISC, as required by law for payments totaling \$600 or more each year. To do this they are required by law to obtain your Social Security number, or the Taxpayer Identification Number (TIN) that is issued to businesses by the IRS. Businesses use IRS Form W-9 to request a taxpay-

*Most businesses will report contractor payments on IRS Form 1099 - MISC for payments totaling \$600 or more each year.*



*War tax resister Ed Hedemann does desktop publishing, editing, and web design to make his living as a sole proprietor.*

er identification number when they make payments to you. It can be helpful to have Form W-9 with you when you go to a potential employer, if you want to be treated and paid as an independent contractor. If you don't provide the Social Security number or TIN requested, the payer is required to withhold up to 28% of the payment to cover your potential tax liability. This process is called backup withholding.

IRS Publication 15, (Circular E) *Employer's Tax Guide*, lists criteria that the IRS uses to determine whether a worker is an employee or a self-employed independent contractor. If you study these criteria, you may design your work life and define your relationship with those you work for so that you will in fact fulfill the criteria for an independent contractor relationship. For example, you may

- decide where, when, and how you work, without employer training or supervision;
- invest in your own facilities, and have business expenses that are not reimbursed by an employer;
- make a profit or loss;
- be paid – after submission of an invoice on your letterhead – by the job, not on a weekly or monthly basis;
- be available to do the similar work for other customers

*Publication 15* also offers examples of traditional self-employment businesses, with interpretations of how self-employment would be typically defined within those vocations.

The IRS also publishes Form SS-8, "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding," with detailed questions that help the IRS make a ruling on whether an individual worker is an employee for Federal tax withholding purposes. Either the worker or the employer may file this form to get a ruling from the IRS. By studying the form you can get more insight into how the IRS defines employment and self-employment. Filing the form, however, is not mandatory.

You will see from all of this how the IRS is focused on try-

ing to prevent self-employed sole proprietors from avoiding payment of taxes. An employer might incorrectly classify you as a non-employee and not withhold applicable income, Social Security, and Medicare taxes. If you subsequently failed to pay these taxes yourself, the employer could be held liable for all of the taxes, plus other penalties. Therefore employers are wary about “independent contractor” relationships, in spite of some potential economic advantages for them.



Lauren Tepper has worked as a freelance yoga instructor, personal trainer, and writer.

## LEVIES

If the IRS is pursuing collection of a tax debt, they have the power to levy employers and clients for payments to independent contractors. An IRS levy on forms of income other than wages and salaries is valid only for the amount owed to you at the time the levy is served. If no unpaid invoices are outstanding at the time of levy, the client owes you nothing and need not honor the levy. However, the IRS tries to treat levies on payments to independent contractors as continuous levies, despite the law and guidelines. Your employers/clients may be confused or intimidated by the IRS into turning over payments and/or discontinuing your services. The IRS counts on that intimidation to use employers as their primary collection agents.

Therapists and medical practitioners who receive payments from insurance companies should be aware that the IRS can levy third party payors. When possible, ask clients to pay you directly and seek reimbursement from their insurer.

If you are selling items online, most payment processors, like PayPal, require a social security number and must report to the IRS account holders whose payments exceed \$20,000 in gross payment volume from sales of goods or services in a single year and 200 separate payments for goods or services in the same year - IRC Section 6050W. The IRS can levy accounts held by payment processors in the same way a bank account can be levied.

Pressures from the IRS can cause problems maintaining a client base. If you have a tax debt, the inquiries or collection pressures from the IRS may intimidate your business customers and cause them to stop using your services. A Notice of Federal Tax Lien filed publicly in the county office might prejudice your ability to collect income in the future from clients who had received notice of the lien.

*An IRS levy on forms of income other than wages and salaries is valid only for the amount owed to you at the time the levy is served.*



*It is more problematic for the IRS to match lower amounts of income from many sources or to issue levies over and over.*

However, IRS enforcement capabilities are variable and unpredictable. They often lack resources to follow up on individual cases. Within the war tax resistance network, sole proprietors who receive income from many sources and payors, even when much of their income is reported on Form 1099, tend to be able to maintain the jobs for many years. It is more problematic for the IRS to match many sources of low amounts or to issue levies repeatedly to contract employers.

## **INCORPORATION**

Incorporation may solve some of the problems encountered in the self-employed sole proprietor relationship. Under the present law there is no IRS form or reporting system to track payments to corporations for services. Incorporating your self-employment business under state law would release your business customers from the obligation to report to the IRS on payments made to your business. This is a loophole in the reporting requirements, and we don't know how long it may remain open. The IRS has sought legislative changes that would extend the 1099 reporting requirement to cover payments to service corporations, but so far Congress has not accommodated their request. Some business customers are not aware of this distinction and may report payments to small service corporations on 1099 MISC. In presenting your corporation credibly to business customers, a business-like name, such as Creative Editorial, Incorporated, might be more convincing than a personalized name, such as John Jones Services, Inc.

However, choosing to operate as a corporation does add complexity to operating your business. In addition to the filing fees, annual reports, keeping minutes of meetings, you will now be an employee of your organization. You will need to draw a reasonable salary and subject yourself to monthly, quarterly and annual payroll tax related filings as well as paying into the state unemployment system. You will have to file a separate corporate tax return in addition to your personal tax return. It is important to be aware of these additional administrative burdens and costs before incorporating.

IRS *Publication 334—Tax Guide for Small Businesses and Publication 583—Starting A Business and Keeping Records* describe the reporting and taxpaying obligations of several forms of small business organizations, including sole proprietorships, partnerships, and corporations.

According to IRS *Publication 542—Corporations*, "Each corporation...must file a tax return even if it had no taxable income for

the year and regardless of its gross income for the year.” We do not know whether the IRS has any coordinated program with the states to monitor whether all registered corporations are complying with this obligation. Most states require an annual report of some kind from corporations in order to retain the corporate charter, and such reports may ask for an IRS Tax Identification Number.

Apart from the possibility of getting business income that is not reported to the IRS, incorporation of your self-employment business can have practical advantages for structuring your economic life to avoid all federal income tax obligations. You might be the only employee of your corporation, or it might also employ your spouse, your children, and other relatives and friends. These are some of the ways that a corporation might structure business expenses and payments to meet your needs without creating tax obligations:

- pay wage compensation at a rate calculated to keep you below a taxable income,
- pay for comprehensive medical insurance for employees,
- fund a pension program for employees,
- rent or own a storefront for doing business; it, and the store front might have bath and kitchen facilities for serving customers that you could also use,
- allow you the use of a sleeping room, as a security against break-ins and theft that this arrangement would provide [although the IRS might regard the value of this as part of taxable compensation if they knew about it],
- own, insure, maintain a vehicle needed for the business,
- subscribe to periodicals for a customer reading shelf,
- own a computer and other office equipment,
- provide you with a cell phone.

Resisters should bear in mind that having closely held corporations pay and deduct what should properly be considered the personal (nondeductible) expenses of its owner-employees is a common, and frequently prosecuted, form of tax evasion among the well-to-do. Unless each expense has a legitimate (“ordinary and necessary”) business purpose, resisters may wish to consider carefully whether the tactics they are using are consistent with their own ethical standards for the conduct of civil disobedience.

Since all net income of a corporation is taxable, the problem for a corporation that intended to avoid payment of taxes for war would be to adjust income and expenses in such a way that there would never be significant taxable income.

*Incorporation may solve some of the problems encountered in the self-employed sole proprietor relationship... but will add complexity to operating your business.*

This might be done by carefully balancing bids and contracts that would generate profits against those that would yield a loss. You could work at profitable rates for prosperous people, and work at very low rates for people who are poor. An incorporated carpentry business that was showing signs of earning taxable income for a given year could employ jobless people to work on home repair for the poor at very low prices, until the potentially taxable income was used up. A medical clinic could treat poor patients at very low rates. A printing shop could charge bargain prices on bids for struggling peace and justice organizations. If you soaked up excess profits in this way you could plan to have very little taxable income at the end of each tax year.

Another option would be to elect to organize as an S Corporation. This is a form of tax status recognized by the IRS in which the corporation does not pay tax on its income. Instead, income deductions and credits are allocated and passed through to individual shareholders. These allocations are reported to the IRS on Form 1120-S (Schedule K-1). Then the shareholders become responsible for reporting these figures on their individual income tax returns (Schedule E, Supplemental Income and Loss) and for paying any income tax that is due.

If an S Corporation was structured so that low income members of a family or community were the shareholders of the corporation, the net income of the corporation could be distributed to them as dividends, and no income tax would be due from those whose individual incomes remained below the taxable threshold. Details about S Corporations can be found on the IRS website at [irs.gov](http://irs.gov).

In these ways, various corporate structures could be used to provide an adequate standard of living, with basic benefits, while legally avoiding income tax obligations.

*The Affordable Care Act (ACA) is still new enough that the implications for war tax resisters are not entirely clear.*

## **HEALTH CARE AND RETIREMENT ISSUES**

The Affordable Care Act (ACA) is still new enough that the implications for war tax resisters are not entirely clear. Many self-employed war tax resisters are finding tax advantages under the system. Those who file and fall into subsidized income brackets expect a significant credit against taxes due at the end of the year, in some cases wiping out any tax due. Others who were unable to afford insurance in the past have found a plan that at least offers emergency coverage. Nonfilers are in the most difficult position given the proof of income requirements to sign up and the necessity to file in order to

receive the subsidy. We will continue to write about this issue on our website and in our newsletter as the ACA develops – or is squeezed by opposition forces.

Many self-employed war tax refusers are concerned about how to provide for future retirement income. If you follow the strategy of getting unreported income and not filing tax returns, you won't be contributing to the Social Security system. However, when you reach retirement age you may be entitled to some level of benefits because of periods in your life when you did work for wages and contribute to Social Security. Even if no Social Security payments were made in your name, under the present system you would be eligible for a minimum level of old age benefits under the SSI and Medicare systems. The Social Security and Medicare websites (or by phone with the offices) can walk you through the options available to you.

If you don't report income and pay taxes, or if the IRS is pursuing you for a tax debt, you may want to establish your own version of a retirement account to provide for your expected needs when illness or age limit your income earning abilities. There are various ways to invest savings to protect them from seizure by IRS and allow the money to help others until you have need for it. One way is to invest in nonprofit community development loan funds that do not pay interest to investors. Because no interest payments are being reported, the IRS would not be informed about the location of these investments. Perhaps a close friend or family member would hold an account for your future needs and with you as the beneficiary. Other ways to hold savings are discussed in *Practical #3: How to Resist Collection*.

If you follow the strategy of incorporating and reporting corporate and personal income, the corporation will be withholding and paying Social Security contributions, and may also cover the cost of comprehensive medical coverage and some type of supplemental retirement fund for you.

While IRAs and pension accounts are subject to seizure for tax debts, if your style is to file and keep your income just below the taxable level, you can lower your taxable income by putting money into an IRA or SEP or SIMPLEs tax-advantaged retirement accounts. Information about the different types of accounts is available on the internet. An accountant may be helpful in choosing the plan that works for your situation. Be aware that retirement benefits may be taxable as personal income at the time that they are paid out to you. (See also *Practicals #5* and *7* for other ideas about health care and retirement savings.)

*If you follow the strategy of getting unreported income and not filing tax returns, you won't be contributing to the Social Security system.*

## PARTNERSHIPS, WORKER COOPERATIVES, AND INTENTIONAL COMMUNITIES

Lots of people would like to work as equals with others on shared vocational tasks, using shared resources, in partnerships, worker cooperatives or intentional communities. If such relationships involve an intention to practice war tax refusal it is important that the cooperators share a clear common commitment on how to deal with tax refusal issues. They need to be fully prepared for the risks and consequences if the time comes when they must face enforcement pressures from the IRS.

This pamphlet deals extensively with the methods that individuals and family units can use to refuse war taxes through self-employment. If there is agreement among partners or the principals of an incorporated business, similar tactics can be used to operate the business in such a way as to receive income and not report it, or to structure income and expenses so that no taxes will be due. However, as businesses become larger, involving more workers, it can become increasingly difficult to maintain agreement among the workers about how to handle tax issues, and to avoid disruptive attention from the IRS.

There is a form of corporate status used by religious communities that can be used to avoid having taxable income. This is the type of structure classified by the IRS as a 501(d) corporation. To qualify as a 501(d), the IRS requires you to have a religious basis, combine sources income, occupy a common piece of property, and have communal treasury in which everyone has an equal share.

The net earnings of the members are aggregated and divided each year into equal pro-rated shares, which are reported on Form K-1. The Tax Court has forced IRS to use a fairly broad definition of these criteria, approving the 501(d) application of Twin Oaks, an intentional community in Virginia. (See below for more on this story.)



*Jerry Chernow worked as a self employed printer for 15 years and then incorporated his business as a worker cooperative when the IRS threatened to shut down the press to collect resisted taxes. (Thanks to Lakeside Press for printing this booklet.)*

This can reduce the reportable income of all members below the taxable threshold. Because a 501(d) is treated like a monastery, with members working for the common good, rather than employees, the K-1 share is also exempt from Social Security and Health Security withholding. The K-1 shares do not reflect what is actually spent for the benefit of various members, but rather reflects the pro-rated paper share of net earnings for each member. Under the Tax Court's precedent, the "religious" basis could be an ethical commitment by members to share things in common and to refuse to participate in structures of war and violence.

This is a very brief summary of collective approaches to war tax refusal. They require careful research and planning so that members know what they are getting into, and so that the structure can withstand possible scrutiny by the IRS.

## **COMMON AREAS OF SELF-EMPLOYMENT**

In this section we describe some areas of self-employment, and how tax refusers have developed their ability to make a living in these vocations without paying military taxes. We list a variety of trades and vocations. We briefly discuss learning and entry, equipment and capital, and tax issues specific to particular vocations.

### **THE BUILDING TRADES**

**Carpentry, Electrical, Plumbing, Painting, Sheet Metal, Heating and Air Conditioning, Tiling, Dry Wall Hanging and Taping, Carpet Laying, Roofing**

The building trades is a traditional area of self-employment, in which it can be easy to refuse payment of war taxes and prevent collection of tax claims. Work opportunities and scheduling are flexible. Pay scales are relatively high. The work is useful and necessary to others. Stress can be kept low, and the work can be satisfying for the worker.

**Learning and Entry** – It's possible to learn most trades by informal apprenticeship. Willingness to work as a helper for a low rate of pay can make you an attractive employee for small contractors, while you are learning the trade by working with them. The learning process can be accelerated by reading basic textbooks and do-it-yourself books on your trade. In most trades, one or two years of this kind of learning would qualify you to go out on your own, and to pass licensing exams in those trades where licensing may be required.

*Collective approaches require careful research and planning so members know what they are getting into, and the structure can withstand possible scrutiny by the IRS.*

## TWIN OAKS AND THE IRS

In *Twin Oaks Community, Inc. v. Commissioner of Internal Revenue*, 87 T.C. 1233 (1986), the IRS argued in U.S. Tax Court that Twin Oaks had been deficient in tax reporting. To satisfy requirements of a “common treasury” or “community treasury” and qualify as a 501(d), religious or apostolic organization, the IRS said the community had to require members to take a vow of poverty. The Tax Court ruled against the IRS on December 3, 1986.

In practice, the community files a partnership return showing each member’s proportionate share of the community income.

Individuals file their own returns on their portion, or the community will file for them, but members’ incomes usually fall below the taxable level. War

tax resisting members who have taxable income (some

have outside income) prepare their own tax returns and are responsible individually for any dealings with the IRS. At one time there was a community-based alternative fund, and the community would pay resisters’ taxes into the fund. The money was distributed according to depositors’ desires after the statute of limitations had run out on each year’s taxes.

Once in the 1980s the IRS concluded there were tax resisters in the community and sent an investigator out. The tax/legal manager at the time convinced him that this was a matter of individual conscience that didn’t involve the community — and that was the end of that.



*Members at Twin Oaks Community work in the gardens and community businesses like making hammocks and tofu. Credit: twinoakscommunity.org*

**Equipment and Capital** – Having your own basic tools can improve your chances of being hired and retained as a helper in the building trades. As you are learning, build your tool and equipment inventory gradually as needed.

**Tax Issues** – Many small contractors in the trades like to pay their workers as self-employed subcontractors, because it cuts down on labor costs and paperwork. The IRS is trying to

tighten up on contractors to prevent them from doing this, but many continue to pay their workers as subcontractors without withholding taxes, although more of them now feel compelled to report such payments on the 1099 Form. Once you become genuinely self-employed, it becomes quite practical to resist all reporting, filing and collection requirements of the IRS.

*The IRS is trying to tighten up on small employers to prevent them from paying workers as contractors.*

## CLEANING AND HOUSEKEEPING

### **House Cleaning, Office Cleaning, Window Washing**

**Learning and Entry** – Most of us have learned the basics by living in homes that needed to be cleaned and by doing it ourselves, but many tricks of the trade can be learned from experienced professionals. An important element is learning to be very clear from the beginning with clients about what they want done and what you are committed to do. These two things need to be compatible. Reliability and good communication are important to successful relationships with clients. People often begin by working for modest wage rates, often for clients they already know personally. Clientele is built by word-of-mouth and by advertising in local papers.

**Equipment and Capital** – Equipment costs are minimal. Workers often use tools and equipment owned by their clients.

**Tax Issues** – Housekeeping services for individual householders are in a special class for tax purposes. Householders are not required by law to withhold income taxes, but they are supposed to report payments and to pay Social Security and Medicare taxes for anyone paid \$1,900 or more a year (2015) as a household employee. Many clients are happy to ignore this legal requirement because they don't want to be bothered with the paperwork and reporting, but a growing awareness of regulations has led others to become nervous about not reporting and paying the required Social Security taxes. Other tax issues are similar to those that apply in other areas of self-employment.

*House-keeping services for individual householders are in a special class for tax purposes.*

## CLERICAL SERVICES

### **Bookkeeping, Accounting, Secretarial, Typing, Computer, Telephone Answering, Tax Preparation**

A number of these office skills can be combined to provide comprehensive service for other small business clients who don't want to spend their time on office paperwork.

**Learning and Entry** – These skills are often learned on the job in wage paying clerical jobs. Community colleges offer courses for formal learning. Entry to self-employment is typi-



cally achieved by building a clientele gradually through word-of-mouth and local advertising.

**Equipment and Capital** – A personal computer and printer with adaptable capabilities is basic to this kind of business. A home office is practical. An investment of several thousand dollars would be typical in establishing flexible self-employment capability.

**Tax Issues** – Much of this kind of work would be done for other businesses. Bookkeeping and accounting would usually involve preparation of tax returns and reporting forms for clients. This is an example of the kind of business in which it might be prudent to incorporate and to operate in a legal manner to avoid tax liabilities. Tax preparers are a special and consistent target of IRS enforcement efforts. However, some people put together a package of clients and services that enables them to work in this area without reporting their income or complying with other IRS requirements.

## CAREGIVING AND COMPANIONSHIP

### **Children, Special Needs, and Older People**

You may provide day care for several children in your own home, or you may go to the homes of clients to provide care for small children, or nursing or companionship for older people or those with special needs.

**Learning and Entry** – Training and certification as a registered nurse or licensed practical nurse enables you to earn higher income in this field. However, there are many opportunities in child care and companionship for the elderly that require little training or experience. Clients are often located through employment agencies and registries that specialize in this kind of placement, for a fee that may be paid by the client or the employee. It is also possible to advertise your services in the local paper or through word of mouth. Working for wealthy clients can be lucrative, and registered nurses, when needed, can earn more. Other opportunities may involve live-in arrangements, lower compensation, and longer hours of responsibility. Knowledge of the local market and intelligent negotiations will be helpful in avoiding exploitative arrangements.

If you care for several children in your own home, you will need to meet strict inspection and licensing regulations of state or local government, which can be costly to meet. It may be feasible to operate informally, but be aware of liability issues for those in your care.

**Tax Issues**—For an employee in the household of others, tax issues would be similar to those described in the section on Cleaning and Housekeeping Services. *Publication 587—Business Use of Your Home*, includes tax information for day care providers. To qualify for federal tax deductions you must be authorized in your state. Such providers should be aware that any of their clients who claim a child care credit on their income taxes has to report the taxpayer identification number of the provider to the IRS.

## SIMPLE LIVING ON THE LAND — GARDENING FOR INCOME

Simple living on the land, combined with sustainable small scale agriculture as a source of income, is an attractive way of life, because it is in harmony with our desire to live on earth without harming others.

**Learning and Entry** — Many people raised in cities have made the transition to life on the land by reading the generous literature available on homesteading and gardening and by learning from their rural neighbors. When they don't have money to buy land with existing housing on it, they often find a few acres to use, on land that is held in community land trusts, or is owned by sympathetic individuals or institutions. People begin by living in primitive housing already on the land and gradually add to it or build their own housing, often without electricity or running water plumbing. They usually garden with organic methods and sell their surplus produce at local farmers' markets, to local restaurants and groceries, or through Community Supported Agriculture (CSA) where customers pay the farmer an annual fee for an agreed portion of the produce from the garden.

### Equipment and Capital

— Property issues aside, this kind of agriculture in our era requires the use of a truck or station wagon at least, some mechanical equipment for tilling the land, and various hand tools. Equipment



*Daniel Woodham makes his living off the land, growing and selling produce in North Carolina.*

*If you care for several children in your own home, you will need to meet strict inspection and licensing regulations of state or local government, which can be costly to meet.*

*Be sure to check with the area Extension Office, State Health Department, and other agencies about regulations... and work from a clear business plan.*

can be assembled gradually from flea markets and auctions. Net profit will be affected by how much is invested in equipment, seeds and plants, property costs, etc. Be sure to check with the area Extension Office, State Health Department, and other agencies about regulations that apply to small farm operations and work from a clear business plan.

**Tax Issues** – Income varies widely depending on acreage, crops, growing season, etc. Within the war tax resistance network and for those with simple living as a priority, this type of work has many advantages. It takes hard work to earn much profit, but you can raise much of your own food and be self-sufficient in many ways that do not apply for city dwellers. Some supplement their cash income through other kinds of part-time work, especially in the off-season. Those who file should read IRS publications, such as *Publication 225, Farmer's Tax Guide*. For many small farmers, most sales income is not reported, so it is possible to ignore IRS reporting and payment requirements. To avoid collection issues related to property ownership, make arrangements to work land under a long term lease, on a land trust, or with collective ownership.

## WRITING AND EDITING

### **Technical Writing, Copy Editing, Translating, Desktop Publishing, Proofreading**

Work of this type has often been done on a freelance basis in the past. The IRS is trying to tighten up on reporting of income paid to freelance writers. It remains an appropriate area for real self-employment, because the work can readily be done at home, according to one's own schedule, and the work product can be specified and priced by contract.

**Learning and Entry** – People we consulted in this field have typically gained their knowledge and experience through salaried employment; after some time they gained a network of contacts and knowledge that allowed them to build a client basis for freelance self-employment.

**Equipment and Capital** – Computer and communications equipment might cost several hundred to several thousand dollars, depending on the type of work being done.

**Tax Issues** – This would be an appropriate field for considering the incorporation option discussed earlier in this pamphlet. Most income in this field would come from publishing corporations. If you work for them as a sole proprietor they would report payments made to you, totaling over \$600 in one year, on Form 1099 MISC.

## PEER-TO-PEER ECONOMY

In recent years, a number of businesses have sprung up to provide services that make it easier for freelancers and clients to find each other and that take some of the uncertainty and insecurity out of transactions between strangers. For example, companies like Uber and Lyft enable individuals to become freelance drivers and for people needing rides to easily find a freelance driver near them. Airbnb allows people to sublet rooms in their homes for a few nights at a time to travelers and vacationers. CreateSpace and Lulu make it easy to go into self-publishing without large start-up costs. TaskRabbit connects people who need odd jobs done with people who have time to help out, and Amazon's Mechanical Turk expands this to jobs that can be accomplished online from home. These are only a few examples of a sector of the economy that is blossoming at the time of the publication of this pamphlet. It is hard to say which of these experiments will survive and which will wither away, but a little research on your part may uncover previously-unsuspected opportunities for freelance work.

*In recent years, a number of businesses have sprung up to provide services that make it easier for freelancers and clients to find each other.*

## CONTRACTUAL ORGANIZER FOR SOCIAL JUSTICE ORGANIZATIONS

Many social justice organizations and associations have aims and philosophies that are in harmony with the conscience concerns of war tax refusers. Some have been willing to respect the war tax refusal concerns of their paid staff by agreeing to pay for services on a contractual basis, rather than a direct employment basis. This usually requires sensitive negotiations and some restructuring of the way the job is done to reassure some anxious directors that the contractual relationship is legitimate and that the viability or credibility of the organization won't be threatened by possible tax enforcement problems. A few organizations refuse to honor salary levies from the IRS. (See *Practical #6, Organizational WTR*)

## OTHER AREAS OF SELF-EMPLOYMENT **Physicians, Dentists, Nurses, Medical Professionals**

In our society, most medical professionals are employed by institutional employers. If they are self-employed, they get much of their income from government and private insurance carriers. Medical professionals are so well placed to offer valued services direct to the public that they can make a decent living by self-employment in small clinics, if they are willing to work for less and take some risks, outside of the large institutional frameworks. One dentist in Massachusetts, who

is a well-known war tax resister, continued to practice dentistry until retirement, even though his state license to practice has been suspended because of his refusal to file and pay both federal and state taxes. His patients trusted him and respected his stand on conscience.



*Paula Rogge is a family physician who contracts her services to clinics and hospitals.*

### **Artists, Musicians, Craftspeople, Creative Writers**

Such artists have traditionally been self-employed. They create what they want to and then try to sell more or less of it in order to make a living. If you are selling through galleries or publishers, income from royalties is reported on 1099s at the low threshold of \$10 and gets included in tax filing on Schedule E. (Royalty income is not subject to social security and medicare taxes but is included in income reporting). Seizure and/or backup withholding can apply to royalties. These problems could be met by selling art directly to the customer, or by selling their rights completely without relying on consignment or royalty arrangements.

### **Architects and Engineers**

Architects and engineers are often self-employed. As with medical professionals, a commitment to war tax refusal could significantly limit the size and types of projects they could work on, and lead them to work for individual homeowners and small businesses rather than large institutional clients.

### **Printers**

Small printing shops that cater to alternative movements exist in many communities and provide self-employment for radical printers. This noble tradition goes back to people like Benjamin Franklin, John Peter Zenger, and Elijah Lovejoy.

### **Retail Stores, Restaurants and Repair Shops**

These can provide self-employment income, but they tend to get in trouble because local sales tax reporting requirements draw them into mandatory income reporting systems, and their facilities and inventory are vulnerable to seizure. This is an area where the option of incorporating and keeping personal income below taxable levels might work effectively.

## Other

Other areas of self-employment used by our associates in the war tax refusal movement have included independent trucking and moving services, taxi driving, counseling, massage therapy, acupuncture, lawn care, fruit picking and pruning, bicycle repair, computer programming, sales, search engine evaluation and many others.

## CAUTIONS AND DISCLAIMERS

Some of the strategies described in this pamphlet are legal, some illegal, and some may fall somewhere in between. They have been derived from personal experience and from interpretations of tax law contained in the referenced IRS publications. Other free publications are listed in IRS Publication 910 – *Guide to Free Tax Services*, which contains an index to subjects discussed in the publications listed.

The *Internal Revenue Code and Regulations*, on which these publications are based, can be researched systematically online, [irs.gov/Tax-Professionals/Tax-Code,-Regulations-and-Official-Guidance](http://irs.gov/Tax-Professionals/Tax-Code,-Regulations-and-Official-Guidance). While we refer to many IRS publications, use them as guidelines but seek the advice of war tax resistance counselors also. Real-life experience varies greatly from the letter-of-the-law, and IRS regulations are sometimes contradicted by Federal courts when challenged by taxpayers. Each area of employment has publications and online sources that go into more detail about requirements and tax obligations.

If your methods include acts of civil disobedience and the IRS shows a debt for you, there are civil penalties that could be assessed, such as for failure to file or failure to pay (up to 25% of tax due), and interest is compounded daily. Criminal penalties within the war tax resistance network are rare but can include prison terms and substantial fines—plus requirements to file and pay all taxes due for the years assessed by the IRS. While the maximum penalties are high and frightening, experience within the war tax resistance network indicates that the maximum is rarely applied, and individuals find a network of support to help them along the way. Even criminal fines can be difficult for the government to collect if an individual is living simply and has few or no assets in their name.

More information on the risks of war tax resistance and refusal can be found on the website, [nwtrcc.org](http://nwtrcc.org), in the publications listed below, and by talking with counselors and contacts in the WTR network. Understanding your motivations and goals will help determine your self-employment choices and prepare you for potential negative consequences. When

*Some of the strategies described in this pamphlet are legal, some illegal, and some may fall somewhere in between.*

thinking about risks and penalties, it is good to remember that continuing to pay military taxes can be very costly to you and harmful to the future of life on this planet.

## SUMMARY

*More information on the risks of war tax resistance and refusal can be found on the website, [nwtrcc.org](http://nwtrcc.org).*

Many skills can be adapted and practiced with the goal of self-employment and sustainable war tax refusal. This often involves accepting a lower level of compensation than would otherwise be expected in your profession or vocation. An enhanced awareness of income levels and consumer issues is often an unforeseen benefit from following the leadings of conscience and deciding to do what one believes to be right. Many social change activists seek ways to create and live in a new, more sustainable economy. War tax refusal can be an important factor on this path.

When this booklet was first published, the tentacles of the IRS did not reach as far into individual lives as they seem to today. A more national financial aid system for college education and the Affordable Care Act are both ways that more individuals feel pressed to file and participate in the tax system. The pressure on employers to hire only salaried staff has narrowed options for contractors.

On the other hand, the options for generating income on the internet have blossomed through auction and sales sites, self-publishing, blogging, etc. Third party payers and new currencies like Bitcoin have the government scrambling for control of this new economy and ways to collect taxes. As the government's tentacles reach out, creativity responds. Self-employment remains one of the most practical options for individuals who do not want their money going to the war machine. At the same time we can help foster a democratic economic network that will be independent of centralized control by the government and the corporate economic establishment.

## RESOURCES

Available from the IRS, (800) 829-3676, or at [irs.gov](http://irs.gov):

**Tax Guide for Small Businesses; Publication 334**  
**Starting a Business and Keeping Records; Publication 583**  
**Corporations; Publication 542**  
**Circular E, Employer's Tax Guide; Publication 15 and 15A**  
**Business Use of Your Home; Publication 587**  
**Guide to Free Tax Services; Publication 910**

**Stand Up to the IRS** by Frederick W. Daily, 12th Edition, 2015, Nolo Press, 950 Parker Street, Berkeley, CA 94710-9867, [nolo.com](http://nolo.com).

Available from NWTRCC:

**War Tax Resistance: A Guide to Withholding Your Support from the Military.** Published by War Resisters League, 5th Edition, March 2003, with annual update, 144 pages. (\$10)

**Practical Series** ([nwrcc.org/publications.php#practical](http://nwrcc.org/publications.php#practical)):

- Practical #1: **Controlling Federal Tax Withholding**
- Practical #2: **To File or Not to File and Income Tax Return**
- Practical #3: **How to Resist Collection, or Make the Most of It**
- Practical #5: **Low Income/Simple Living as War Tax Resistance**
- Practical #6: **Organizational War Tax Resistance**
- Practical #7: **Healthy, "Wealthy," and Wise: Aging and War Tax Resistance**

(Single copies #1-3 75¢ each, #4-7 \$1 each; call for bulk rates.)

**WTRs and the IRS**, a brief outline of WTR motivations, methods and consequences. (\$2.50 each from NWTRCC.)

This brochure was produced by the National War Tax Resistance Coordinating Committee. NWTRCC is a coalition of local, regional, and national groups supportive of war tax resistance. Additional single copies are available for 75¢ each.

## NATIONAL WAR TAX RESISTANCE COORDINATING COMMITTEE

PO Box 150553, Brooklyn, NY 11215  
(800)269-7464 • [nwrcc@nwrcc.org](mailto:nwrcc@nwrcc.org)  
[www.nwrcc.org](http://www.nwrcc.org)

**Local Contact:**

