

CONSOLIDATED LEGAL ANALYSIS IRS FORMS, CIVIL STATUTORY CAPACITY, AND COMPELLED LEGAL STATUS DECLARATIONS

*A Five-Part Framework for Challenging Form-Based Status
Determinations*

April 13, 2026

**PRIVILEGED AND CONFIDENTIAL – PREPARED FOR LITIGATION
PURPOSES**

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PART I

**FORMAL LEGAL MEMORANDUM – WHY IRS
FORMS CANNOT LAWFULLY ESTABLISH
CIVIL STATUTORY CAPACITY**

TO: Litigation File

FROM: Counsel

DATE: April 13, 2026

RE: Whether IRS Informational Forms Can Lawfully Establish Civil Statutory Capacity

QUESTION PRESENTED

Whether IRS informational forms — including but not limited to Forms W-4, W-9, W-2, 1040, and the 1099 series — can lawfully operate as instruments that establish, determine, or adjudicate a natural person's civil statutory capacity; that is, whether such forms can create the legal status they presuppose.

SHORT ANSWER

No. IRS forms are ministerial instruments designed to collect factual data and facilitate elections within a pre-existing statutory framework. They cannot lawfully establish, determine, or adjudicate the civil statutory capacity of the person completing or receiving them. Status determination is an adjudicative function requiring due process protections that no IRS form provides. To treat a form submission as a status determination is to conflate ministerial data collection with judicial or quasi-judicial adjudication — a conflation that is both logically incoherent and constitutionally impermissible.

DISCUSSION

A. The Ministerial Nature of IRS Forms

A ministerial act is "an act performed in a prescribed manner and in obedience to a legal authority, without regard to one's own judgment or discretion." *See* Restatement (Second) of Torts; Legal Information Institute, Wex Legal Dictionary (defining "ministerial act"). The essential characteristic of a ministerial function is the absence of discretion: the

officer follows prescribed steps, applies no independent judgment, and exercises no adjudicative authority.

IRS officers who receive and process informational forms operate in a ministerial capacity. Their duties consist of receiving submitted forms, verifying that objective criteria of completeness have been met (e.g., that required fields are filled, that a Taxpayer Identification Number conforms to the expected format), and processing the data contained therein. These are clerical functions — they involve no exercise of judgment regarding the legal status of the submitter.

The critical distinction is this: ministerial acts involve *verifying that objective criteria have been met*. They do not involve *making legal determinations about a person's civil capacity*. The IRS officer receiving a Form W-9 or Form W-4 possesses no statutory authority to determine whether the submitter holds the civil statutory capacity implied by the form. The officer's role is purely clerical: receive the form, verify completeness, and process it within the applicable system.

B. The Logical Impossibility: Forms Presuppose What They Cannot Create

Every IRS informational form presupposes the civil statutory capacity of the person completing it. This presupposition is embedded in the structure of each form:

- **Form W-4** presupposes that the submitter is an "employee" as defined under 26 U.S.C. § 3401(c).
- **Form W-9** presupposes that the submitter is a "U.S. person" as defined under 26 U.S.C. § 7701(a)(30).
- **Form 1040** presupposes that the filer is a "taxpayer" as defined under 26 U.S.C. § 7701(a)(14).

But the form itself provides no mechanism for establishing that status. It simply assumes it. The form requires the submitter to already *be* the thing it

treats them as, yet it contains no process for determining whether the submitter actually *is* that thing.

This creates an irreducible circularity: the form presupposes a legal status that can only be established through a process external to the form. The form cannot bootstrap its own jurisdictional predicate. No IRS form contains an adjudicative mechanism — no hearing, no evidentiary standard, no finding of fact, no right to contest. The absence of such mechanisms is not an oversight; it reflects the ministerial character of the instrument.

C. Due Process Requirements for Status Determination

The Fifth Amendment to the United States Constitution provides: "nor shall any person . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court established the three-factor balancing test for determining the adequacy of procedural due process: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335.

Civil statutory capacity — the legal status that triggers specific obligations under the Internal Revenue Code — is a determination that directly affects liberty and property interests. The classification of a natural person as a "taxpayer," an "employee," or a "U.S. person" activates a regime of compulsory obligations, including the obligation to file returns, to submit to withholding, and to pay taxes. These obligations constitute deprivations of property that trigger due process protections.

Due process requires, at a minimum: (1) notice of the proposed status determination; (2) an opportunity to be heard before a neutral adjudicator; and (3) a reasoned decision based on the evidence presented. No IRS form

provides any of these protections. Forms are submitted ministerially — there is no adversarial process, no neutral decision-maker, and no opportunity to contest the status determination implicit in the form.

D. The Distinction Between Factual Reporting and Legal Conclusion

A careful examination of IRS forms reveals that they contain two fundamentally different categories of information:

First, some form fields collect facts — name, address, Taxpayer Identification Number. These are ministerial data points. They identify the submitter and provide contact and administrative information. Their completion does not require the submitter to make any assertion about their legal status.

Second, other form fields compel legal conclusions. For example, Form W-9, Line 3 requires the submitter to self-classify as "Individual/sole proprietor," "C Corporation," "S Corporation," "Partnership," "Trust/estate," or "LLC." These are not simple factual assertions. They are legal classifications defined by the Internal Revenue Code, and the correct classification depends on the application of complex statutory and regulatory criteria to the submitter's particular circumstances.

The act of compelling a person to self-certify a legal classification — without providing any adjudicative process for contesting or challenging that classification — transforms a ministerial form into an instrument of compelled legal status declaration. This transformation exceeds the ministerial function of the form and implicates constitutional protections that the form is not designed to satisfy.

E. Conclusion of Part I

IRS forms are ministerial instruments. They cannot perform adjudicative functions. The civil statutory capacity they presuppose must be established through a process that satisfies the requirements of procedural due process — a process that no IRS form provides. Any attempt to treat a form

submission as a binding status determination is constitutionally deficient, logically circular, and legally void.

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PART II

FLOWCHART — THE LOGICAL IMPOSSIBILITY FACED BY MINISTERIAL OFFICERS

Decision Tree: Can a Ministerial Officer Determine Civil Statutory Capacity?

START:

IRS Officer Receives Form (W-4, W-9, 1040, etc.)



DECISION 1:

Does the officer have statutory authority to adjudicate the submitter's civil statutory capacity?

→ **IF YES:** "Identify the statute granting adjudicative authority."

Analysis: No such statute exists. The officer's authority is ministerial only.

See

26 U.S.C. § 7803 (defining the Commissioner's authority and organizational structure — no adjudicative power over individual capacity is delegated to line officers).

✘ DEAD END: Officer cannot adjudicate capacity.

→ **IF NO:** Proceed to Decision 2.



DECISION 2:

Does the form itself contain an adjudicative mechanism (hearing, evidence review, neutral decision-maker)?

→ **IF YES:** "Identify the adjudicative mechanism on the form."

Analysis: No IRS form contains such a mechanism. Forms W-4, W-9, W-2, 1040, 1099-NEC, and 1099-MISC contain no provision for hearings, evidentiary review, or neutral adjudication.

✘ DEAD END: Form cannot adjudicate capacity.

→ **IF NO:** Proceed to Decision 3.



DECISION 3:

Does the submitter's act of signing the form constitute a binding legal determination of their civil statutory capacity?

→ **IF YES:** "What due process was afforded before this determination?"

Analysis: None. The form provides no notice of a proposed status determination, no hearing before a neutral adjudicator, and no opportunity to contest the classification. The submitter received no process whatsoever.

✘ DEAD END: Determination violates Fifth Amendment due process.

See

U.S. Const. amend. V;

Mathews v. Eldridge

, 424 U.S. 319 (1976).

→ **IF NO:** Proceed to Decision 4.



DECISION 4:

Can the form be processed as a ministerial act without establishing civil statutory capacity?

→ **IF YES:**

✓ **RESULT:** Form is processed ministerially. No capacity determination is made. The submitter's civil statutory capacity remains undetermined by this instrument. **THIS IS THE ONLY CONSTITUTIONALLY PERMISSIBLE OUTCOME.**

→ **IF NO:**

Then the form requires an adjudicative determination that neither the officer nor the form is equipped to make.

✘ DEAD END: Constitutional impossibility. The form demands a function it cannot perform.



CONCLUSION: Every path through this decision tree that attempts to use the form as a capacity-determining instrument leads to a dead end. The only constitutionally valid path is the ministerial one: process the form as data collection without treating it as a status determination. Any other interpretation creates a constitutional impossibility — an instrument that purports to adjudicate without adjudicative authority, to determine without due process, and to bind without constitutional legitimacy.

PART III

MODEL LITIGATION ARGUMENT — CHALLENGING COMPELLED LEGAL CONCLUSIONS

MODEL ARGUMENT: THE UNCONSTITUTIONALITY OF COMPELLED LEGAL STATUS DECLARATIONS THROUGH IRS FORMS

I. INTRODUCTION

1. The United States government, through the Internal Revenue Service, compels millions of individuals annually to complete informational forms that require the declarant to certify legal conclusions about their own civil statutory capacity — conclusions that, in any other legal context, would require formal adjudication before they could be treated as binding.

2. This practice violates the First Amendment to the United States Constitution (compelled speech), the Fifth Amendment (procedural due process and the privilege against self-incrimination), and exceeds the statutory authority delegated to the Internal Revenue Service by Congress. Each basis is addressed in turn below.

II. COMPELLED SPEECH: THE FIRST AMENDMENT ARGUMENT

3. The First Amendment prohibits the government from compelling individuals to affirm beliefs or express messages they do not wish to endorse. In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), the Supreme Court declared: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other

matters of opinion or force citizens to confess by word or act their faith therein."

4. The Court reinforced this principle in *Wooley v. Maynard*, 430 U.S. 705 (1977), holding that the government cannot compel a person to display or affirm a message they do not wish to endorse. The right to refrain from speaking is a corollary of the right to speak; compelled affirmation of a government-prescribed message is no less an infringement of First Amendment liberty than the suppression of speech.

5. IRS informational forms compel individuals to affirm legal conclusions about their own civil statutory capacity. When a natural person signs a Form W-9 certifying that they are a "U.S. person" within the meaning of 26 U.S.C. § 7701(a)(30), that person is not merely reporting a fact — they are affirming a legal conclusion that carries binding statutory consequences, including subjection to the full regime of federal income taxation.

6. The government may contend that this compulsion falls within the exception recognized in *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985), which permits compelled disclosure of "purely factual and uncontroversial information." *Id.* at 651. But legal status classifications are neither purely factual nor uncontroversial. Whether a particular natural person is an "employee" under 26 U.S.C. § 3401(c), a "taxpayer" under 26 U.S.C. § 7701(a)(14), or a "U.S. person" under 26 U.S.C. § 7701(a)(30) depends upon the application of complex statutory definitions to specific facts — an inherently interpretive exercise about which reasonable persons may and do disagree.

7. The compulsion to self-certify a legal status — under penalty of perjury, 26 U.S.C. § 7206 — without any opportunity to contest or challenge that classification, constitutes compelled ideological speech, not compelled factual disclosure. It forces the individual to "confess by word or act their faith" in a legal proposition prescribed by the government. *Barnette*, 319

U.S. at 642. *See also Janus v. AFSCME*, 585 U.S. 878 (2018) (reaffirming that compelled speech is subject to exacting First Amendment scrutiny).

III. DUE PROCESS: THE FIFTH AMENDMENT ARGUMENT

8. Civil statutory capacity is the jurisdictional predicate for governmental authority. It is the legal classification that determines whether an individual falls within the scope of specific statutory obligations. "Taxpayer" status under 26 U.S.C. § 7701(a)(14) triggers the obligation to file returns and pay taxes. "Employee" status under 26 U.S.C. § 3401(c) triggers wage withholding obligations. These are not abstract classifications — they are concrete determinants of liberty and property interests.

9. Before the government may impose liability on the basis of a person's legal status, the Fifth Amendment requires that the determination of that status be made through constitutionally adequate procedures. *See* U.S. Const. amend. V ("nor shall any person . . . be deprived of life, liberty, or property, without due process of law").

10. Application of the *Mathews v. Eldridge* three-factor test demonstrates that current IRS form-based procedures are constitutionally inadequate:

- **Factor One — Private Interest Affected:** The private interest at stake is substantial. An erroneous status determination can subject an individual to an entire regime of federal tax liability — potentially amounting to confiscation of a significant portion of their income and property — that would not otherwise apply. This is among the most significant property interests recognized in law.
- **Factor Two — Risk of Erroneous Deprivation:** The risk of erroneous deprivation through form-based self-certification is high. The forms provide no mechanism for independent verification of the legal conclusions they compel. The submitter is required to self-certify a legal status without any opportunity for adversarial testing of the

government's jurisdictional claim. No neutral adjudicator reviews the determination. No evidentiary standard is applied.

- **Factor Three — Government Interest:** The government's interest in administrative efficiency, while legitimate, does not justify the complete elimination of procedural safeguards for a determination of this magnitude. Alternative procedures — including notice-and-comment processes, administrative hearings, or judicial review — are available and would impose manageable administrative costs relative to the gravity of the interests at stake.

11. The government cannot bootstrap a status determination by requiring the individual to self-certify the very status that triggers the government's authority over them. This is constitutionally impermissible circular reasoning: the government claims authority on the basis of a status that exists only because the government compelled the individual to declare it. The predicate cannot be its own proof.

IV. ULTRA VIRES: THE STATUTORY AUTHORITY ARGUMENT

12. IRS officers exercise delegated authority under 26 U.S.C. § 7803 and regulations promulgated by the Secretary of the Treasury. This delegated authority is ministerial in character: it encompasses the collection, processing, and administration of tax information. It does not include the authority to adjudicate the civil statutory capacity of any natural person.

13. When the IRS treats a form submission as a binding determination of the submitter's legal status — i.e., when it acts upon a W-4 as conclusive proof that the submitter is an "employee," or upon a 1040 as conclusive proof that the filer is a "taxpayer" — it exceeds the scope of its delegated authority. The agency acts *ultra vires*: beyond its lawful power.

14. In *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), the Supreme Court held that an administrative agency must act within the

bounds of the authority delegated to it and must follow its own regulations. An agency that exceeds its delegated authority acts without legal sanction, and its actions are void. *See also Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47 (2006) (analyzing the scope of governmental power to compel conduct through conditional funding — reinforcing the principle that government compulsion must be grounded in lawful authority).

15. No statute delegates to the IRS the authority to determine civil statutory capacity through the medium of informational forms. The forms are instruments of data collection, not instruments of adjudication. Any treatment of them as the latter is an unauthorized expansion of agency power.

V. REQUESTED RELIEF

16. Based on the foregoing, the following relief is respectfully requested:

- 1. Declaratory Judgment:** An order and declaration that IRS informational forms (including but not limited to Forms W-4, W-9, W-2, 1040, 1099-NEC, and 1099-MISC) do not and cannot establish, determine, or adjudicate the civil statutory capacity of the natural persons who complete or receive them; that such forms are ministerial instruments of data collection only; and that no form submission constitutes a binding determination of legal status.
- 2. Injunctive Relief:** A permanent injunction prohibiting the Internal Revenue Service and its officers, agents, and employees from treating the submission of any informational form as a binding determination of the submitter's civil statutory capacity, absent constitutionally adequate procedural protections including notice, hearing, and neutral adjudication.

3. **Order Requiring Constitutional Procedures:** An order directing the Internal Revenue Service to develop and implement constitutionally adequate procedures for the determination of civil statutory capacity, including at a minimum: (a) written notice to the individual of the proposed status classification and its statutory basis; (b) an opportunity to be heard before a neutral administrative adjudicator; (c) a reasoned written decision supported by substantial evidence; and (d) a right of administrative and judicial appeal.

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PART IV

TABLE — MAPPING IRS FORMS TO FACT, LEGAL CONCLUSION, OR ELECTION

The following table maps key fields and lines on six major IRS forms to their content type and classifies each entry as a **Fact** (a purely factual assertion), a **Legal Conclusion** (a determination requiring application of statutory law to specific facts), or an **Election** (a volitional selection among statutory options). Mixed entries contain elements of more than one classification.

IRS Form	Key Field / Line	Content Type	Classification	Analysis
Form W-4 (Employee's Withholding Certificate)	Line 1 — Name	Personal identification	Fact	Purely factual identification of the submitter. No legal

IRS Form	Key Field / Line	Content Type	Classification	Analysis
				conclusion required.
Line 2 — Social Security Number	Numerical identifier	Fact	A numerical identifier assigned by the Social Security Administration. Factual data point.	
Step 1(c) — Filing Status	Status selection	Election	The submitter selects a filing status from enumerated options (Single, Married Filing Jointly, Head of Household). This is a volitional election — a choice among statutory alternatives — not a factual assertion or legal conclusion.	
Steps 2-4 — Adjustments	Withholding calculations	Election	The submitter makes voluntary elections regarding withholding amounts, additional income, deductions, and dependents. These reflect voluntary choices within the statutory framework.	
"Employee" status (implicit)	Legal classification	Legal Conclusion	The form presupposes that the submitter is an "employee" as defined under 26 U.S.C. § 3401(c). The form provides no mechanism for establishing or contesting this classification. The submitter is compelled to act within a legal framework that assumes a status never adjudicated.	
Form W-9 (Request for TIN and Certification)	Line 1 — Name	Personal identification	Fact	Purely factual identification of the submitter.

IRS Form	Key Field / Line	Content Type	Classification	Analysis
Line 2 — Business name	Entity identification	Fact	Factual identification of a business entity, if applicable.	
Line 3a — Federal tax classification	Entity/status classification	Legal Conclusion	Requires the submitter to classify themselves as Individual/sole proprietor, C Corporation, S Corporation, Partnership, Trust/estate, or LLC. These are legal classifications defined by the Internal Revenue Code, not simple factual assertions. Correct classification requires application of statutory definitions to specific facts — an inherently adjudicative determination.	
Line 3b — Foreign partners, owners, or beneficiaries	Ownership/status determination	Legal Conclusion	Requires a legal determination about the status of indirect owners or beneficiaries — a question that may involve complex multi-layered entity analysis and application of international tax provisions.	
Part II — Certification	Sworn certification	Legal Conclusion	Compels the submitter to certify under penalty of perjury that the TIN provided is "correct," that they are "not subject to backup withholding," and — implicitly — that they are a "U.S. person" as defined in 26 U.S.C. § 7701(a)(30). Each of these certifications involves a legal conclusion, not a mere factual assertion.	
Form W-2 (Wage and Tax Statement)	Box 1 — Wages, tips, other compensation	Monetary amount	Fact	A factual report of amounts paid by the

IRS Form	Key Field / Line	Content Type	Classification	Analysis
	n			employer to the worker during the tax year.
Box 2 — Federal income tax withheld	Monetary amount	Fact	A factual report of amounts withheld from the worker's pay for federal income tax purposes.	
"Employee" designation (implicit)	Legal classification	Legal Conclusion	The employer has unilaterally classified the worker as an "employee" under 26 U.S.C. § 3401(c). This classification was made without independent adjudication and without the worker's formal consent to the legal status. The worker receives the W-2 as a fait accompli — the status determination has already been made, and no process for contesting it is provided on or through the form.	
Box 12 — Coded entries	Various amounts and codes	Mixed	Some entries report facts (e.g., amounts of elective deferrals), while others reflect elections made by the worker (e.g., retirement plan contributions). The characterization and coding of these entries involves application of regulatory definitions.	
Form 1040 (U.S. Individual Income Tax Return)	Name, address, SSN	Personal identification	Fact	Purely factual identification data.
Filing Status (Lines 1-5)	Status selection	Election	Voluntary selection of filing status from enumerated statutory options. This is a volitional election.	

IRS Form	Key Field / Line	Content Type	Classification	Analysis
Line 15 — Taxable income	Computed legal determination	Legal Conclusion		The characterization of amounts as "taxable income" under 26 U.S.C. § 61 is a legal conclusion, not a simple factual assertion. What constitutes "income" within the meaning of the Sixteenth Amendment and the Internal Revenue Code is a question of law that has been litigated extensively. The filer is compelled to make this legal determination without adjudicative guidance.
Signature under penalties of perjury	Sworn declaration	Legal Conclusion		The declarant certifies that the return is "true, correct, and complete" — a certification that necessarily encompasses all legal conclusions embedded in the return, including the characterization of income, the validity of deductions, and the correctness of the tax computation. This is a compelled legal affirmation under threat of criminal penalty.
"Taxpayer" status (implicit)	Legal classification	Legal Conclusion		The form presupposes that the filer is a "taxpayer" as defined in 26 U.S.C. § 7701(a)(14): "any person subject to any internal revenue tax." The form provides no mechanism for contesting this foundational classification.
Form 1099-NEC (Nonemployee Compensation)	Box 1 — Nonemployee compensation	Monetary amount with legal characterization	Mixed	The amount reported is factual, but the characterization

IRS Form	Key Field / Line	Content Type	Classification	Analysis
n)				<p>ion as "nonemployee compensation" is a legal conclusion. The payer has determined that (a) the payee is not an "employee" and (b) the payment constitutes "compensation" within the meaning of the statute. Both determinations involve application of legal standards to facts, and both are made unilaterally by the payer.</p>
"Nonemployee" classification (implicit)	Legal classification	Legal Conclusion	Reflects the payer's unilateral determination of the payee's legal status as a non-employee. This classification is made without adjudication, without the payee's consent, and without any process for the payee to contest the classification on or through the form.	
Form 1099-MISC	Box 3 — Other	Monetary amount with	Mixed	The amount is factual;

IRS Form	Key Field / Line	Content Type	Classification	Analysis
(Miscellaneous Information)	income	legal characterization		the characterization as "income" involves application of the statutory definition of gross income under 26 U.S.C. § 61 — a legal conclusion.
Box 7 — Payer made direct sales of \$5,000 or more	Transaction characterization	Mixed	The occurrence of transactions is factual, but their characterization as "direct sales" involves application of legal and regulatory definitions that constitute legal classification.	

Summary: *Of the major data points across these six forms, purely factual assertions constitute a minority of the substantive content. The majority of substantive entries involve either legal conclusions that presuppose the submitter's or recipient's civil statutory capacity, or elections that carry binding statutory consequences. The forms systematically require individuals to make or accept legal determinations without providing any adjudicative mechanism for establishing the validity of those determinations.*

PART V

CONSTITUTIONAL ANALYSIS — COMPELLED LEGAL STATUS DECLARATIONS

THE CONSTITUTIONAL IMPERMISSIBILITY OF COMPELLED LEGAL STATUS DECLARATIONS

A. The Convergence of Constitutional Protections

Three provisions of the United States Constitution converge to prohibit the practice of compelling individuals to declare their own legal status through government forms, and to prohibit the government from treating such declarations as binding status determinations:

4. **The First Amendment** — prohibiting compelled speech and compelled affirmation of government-prescribed beliefs. U.S. Const. amend. I.
5. **The Fifth Amendment** — requiring procedural due process before the deprivation of liberty or property, and protecting against compelled self-incrimination. U.S. Const. amend. V.
6. **The Fourteenth Amendment, Section 1** — guaranteeing equal protection of the laws and extending due process requirements to state action. U.S. Const. amend. XIV, § 1.

Each of these constitutional provisions independently prohibits the current practice. Together, they form an interlocking constitutional barrier that no administrative convenience can overcome.

B. First Amendment Analysis: When Factual Disclosure Becomes Compelled Ideology

The analytical framework for compelled speech begins with the distinction drawn in *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985). Under *Zauderer*, the government may require the disclosure of "purely factual and uncontroversial information" subject only to rational basis review. *Id.* at 651. But this permissive standard applies only where the compelled disclosure is, in fact, "purely factual and uncontroversial."

Legal status declarations fail the *Zauderer* threshold on both counts.

They are not purely factual. Whether a natural person is an "employee" under 26 U.S.C. § 3401(c), a "taxpayer" under 26 U.S.C. § 7701(a)(14), or a "U.S. person" under 26 U.S.C. § 7701(a)(30) is a legal conclusion. It depends on the application of statutory definitions — which themselves contain terms of art — to the specific facts of the individual's situation. The determination of legal status is an interpretive act, not a factual observation. One does not *observe* that one is a "taxpayer" in the way one observes that one's name is a particular string of characters. The former requires legal analysis; the latter requires only memory.

They are not uncontroversial. Reasonable persons can and do disagree about whether specific statutory definitions apply to them. The boundaries of terms like "employee," "income," and "U.S. person" have been the subject of extensive litigation, scholarly commentary, and regulatory interpretation. The fact that these questions are frequently litigated is itself evidence that they are "controversial" within the meaning of the *Zauderer* framework.

Because legal status declarations are neither purely factual nor uncontroversial, the *Zauderer* framework does not apply. The proper analytical framework is the one established in *Barnette*, 319 U.S. 624, and reinforced in *Wooley*, 430 U.S. 705, and *Janus v. AFSCME*, 585 U.S. 878 (2018): when the government compels an individual to affirm a proposition — particularly a proposition with which the individual may disagree — the compulsion is subject to exacting First Amendment scrutiny.

Under strict scrutiny, the government must demonstrate that the compulsion is narrowly tailored to serve a compelling governmental interest. While the government's interest in tax administration is substantial, the use of compelled self-certification as the mechanism for status determination is not narrowly tailored. Less restrictive alternatives exist — including administrative adjudication, notice-and-hearing procedures, and judicial determination — that would serve the government's interest without compelling individuals to affirm legal conclusions under penalty of perjury.

C. Fifth Amendment Analysis: Due Process and the Status-Liability Nexus

Civil statutory capacity is the gateway to liability. It is the jurisdictional predicate — the legal foundation upon which the government's authority to impose specific obligations rests. "Taxpayer" status triggers the obligation to file returns and pay taxes. "Employee" status triggers wage withholding. "U.S. person" status triggers worldwide income reporting obligations. Each of these status classifications has concrete, immediate, and substantial effects on liberty and property interests.

The Fifth Amendment prohibits the government from depriving any person of liberty or property without due process of law. When the government imposes tax liability on the basis of a legal status — "taxpayer," "employee," "U.S. person" — it deprives the individual of property. Due process requires that the predicate status determination be made through constitutionally adequate procedures *before* the deprivation occurs.

The current system inverts this constitutional requirement. Instead of the government proving — through an adjudicative process — that a person holds a particular legal status, the government compels the individual to self-certify that status. The individual is required to declare, under penalty of perjury, that they hold the very status that triggers the government's authority to tax them. The government then relies on this compelled self-certification as the basis for imposing liability.

This inversion violates the foundational principle that the government bears the burden of establishing its jurisdiction over the individual. In the Anglo-American legal tradition, the burden of proof rests with the party asserting an affirmative claim. The government asserts that the individual is a "taxpayer" subject to the Internal Revenue Code. It is the government's burden to prove this assertion — not the individual's burden to disprove it, and certainly not the individual's obligation to *prove it for the government* by self-certifying the status the government claims.

Self-Incrimination Implications. The Fifth Amendment further provides that no person "shall be compelled in any criminal case to be a witness against himself." U.S. Const. amend. V. When an individual is compelled to certify a legal status under penalty of perjury — and that certification can later be used as evidence against the individual in enforcement proceedings, including criminal prosecutions under 26 U.S.C. § 7206 (fraud and false statements) — the certification functions as compelled testimony against the declarant's interest. The individual is forced to create evidence that may later be used to prosecute them. This is precisely the evil the Self-Incrimination Clause was designed to prevent.

D. Fourteenth Amendment Analysis: Equal Protection and Structural Asymmetry

The current form-based system creates a structural asymmetry between the government and the individual that offends the Equal Protection Clause of the Fourteenth Amendment. Under this system:

- The **government** benefits from status declarations without bearing the burden of proving them. The government receives the declarant's self-certification and treats it as conclusive — without ever having to demonstrate, through an adversarial process, that the declared status is correct.
- The **individual** bears all the risk. If the self-certification is "correct" (in the government's view), the individual is bound by all the

obligations that flow from the declared status. If the self-certification is "incorrect," the individual faces criminal penalties for fraud or false statements. The individual cannot win: compliance and non-compliance alike carry adverse consequences.

This asymmetry violates equal protection principles. The government has constructed a system in which the individual is simultaneously the accuser and the accused, the witness and the defendant. The individual declares their own status, and the government uses that declaration to impose liability — without ever bearing the burden of independent proof.

The Fourteenth Amendment's guarantee of equal protection requires that similarly situated persons be treated alike. But the form-based system treats all persons as having the same civil statutory capacity, regardless of their actual legal situation. A natural person whose factual circumstances may place them outside the statutory definitions of "employee," "taxpayer," or "U.S. person" is nonetheless compelled to complete forms that presuppose those statuses. The one-size-fits-all approach of the form-based system fails to account for legitimate differences in status and violates the individualized determination requirement of due process.

E. The Remedy: What Constitutional Compliance Would Require

If the government wishes to establish that a particular natural person holds a particular civil statutory capacity — and thereby to subject that person to the obligations that flow from that capacity — it must do so through a process that satisfies the requirements of procedural due process. At a minimum, such a process must include:

7. **Notice:** The individual must be informed, in writing, that the government intends to classify them under a particular statutory status (e.g., "taxpayer," "employee," "U.S. person"). The notice must identify the specific statutory provision under which the classification is proposed and the factual basis for the government's claim.

8. **Hearing:** The individual must have a meaningful opportunity to contest the proposed classification before a neutral decision-maker — not an IRS employee, but an independent adjudicator with no institutional interest in the outcome. The hearing must permit the individual to present evidence, cross-examine witnesses, and make legal arguments.
9. **Finding:** The decision-maker must issue a reasoned written finding, based on substantial evidence in the record, that the individual meets the statutory criteria for the claimed status. The finding must articulate the factual basis for the determination and the legal standard applied.
10. **Appeal:** The individual must have the right to appeal an adverse determination — first through administrative channels and ultimately to an Article III court with the power to conduct de novo review of the legal questions involved.

Until such a process is provided, no form submission can constitute a binding determination of civil statutory capacity. Forms may collect facts. Forms may facilitate elections. But forms cannot adjudicate legal status — and any system that treats them as doing so is constitutionally deficient.

F. Conclusion

The practice of compelling legal status declarations through IRS informational forms is constitutionally impermissible under the First, Fifth, and Fourteenth Amendments to the United States Constitution. The First Amendment prohibits the government from compelling individuals to affirm legal conclusions with which they may disagree. The Fifth Amendment prohibits the government from imposing liability on the basis of a status determination made without procedural due process, and from compelling individuals to create testimonial evidence against their own interest. The

Fourteenth Amendment prohibits the structural asymmetry of a system in which the individual bears all the burden and the government bears none. Forms may collect facts. Forms may facilitate elections. But forms cannot adjudicate legal status. The ministerial instrument cannot perform the adjudicative function. And no amount of administrative convenience can transmute an unconstitutional practice into a lawful one.

PRIVILEGED AND CONFIDENTIAL — PREPARED FOR LITIGATION PURPOSES

APPENDIX A

KEY AUTHORITIES

Case Law

Case	Citation	Relevance
<i>West Virginia State Board of Education v. Barnette</i>	319 U.S. 624 (1943)	Prohibition on compelled affirmation of government-prescribed beliefs; "fixed star" doctrine against compelled orthodoxy.
<i>Wooley v. Maynard</i>	430 U.S. 705 (1977)	Right to refrain from affirming government messages; compelled display of ideological content violates First Amendment.
<i>Zauderer v. Office of Disciplinary Counsel</i>	471 U.S. 626 (1985)	Framework for compelled disclosure of "purely factual and uncontroversial" information;

Case	Citation	Relevance
		distinguishes permissible factual disclosure from impermissible compelled ideology.
<i>Mathews v. Eldridge</i>	424 U.S. 319 (1976)	Three-factor balancing test for procedural due process; framework for evaluating adequacy of governmental procedures that affect liberty and property interests.
<i>United States ex rel. Accardi v. Shaughnessy</i>	347 U.S. 260 (1954)	Agencies must act within delegated authority and follow their own regulations; ultra vires doctrine.
<i>Rumsfeld v. Forum for Academic and Institutional Rights, Inc.</i>	547 U.S. 47 (2006)	Scope of governmental power to compel conduct; limits on government compulsion through conditional mechanisms.
<i>Janus v. AFSCME</i>	585 U.S. 878 (2018)	Reaffirms exacting First Amendment scrutiny for compelled speech; compelled subsidization of speech as First Amendment violation.

Statutory Authorities

Statute	Subject
26 U.S.C. § 61	Gross income defined — establishes the statutory definition of income subject to federal taxation.

Statute	Subject
26 U.S.C. § 3401(c)	Employee defined — statutory definition of "employee" for purposes of income tax withholding on wages.
26 U.S.C. § 7701(a)(14)	Taxpayer defined — "The term 'taxpayer' means any person subject to any internal revenue tax."
26 U.S.C. § 7701(a)(30)	United States person defined — statutory definition of "U.S. person" for purposes of the Internal Revenue Code.
26 U.S.C. § 7803	Commissioner of Internal Revenue; other officials — establishes the organizational structure and authority of the IRS.

Constitutional Provisions

Provision	Subject
U.S. Const. amend. I	Freedom of speech; prohibition on compelled speech and compelled affirmation of beliefs.
U.S. Const. amend. V	Due process of law; privilege against self-incrimination; prohibition on deprivation of life, liberty, or property without due process.
U.S. Const. amend. XIV, § 1	Equal protection of the laws; due process applicable to state action; privileges and immunities of citizenship.

Secondary Authorities

Authority	Subject
Restatement (Second) of Torts	Definition and analysis of

Authority	Subject
	ministerial acts and duties; distinction between ministerial and discretionary functions.

PRIVILEGED AND CONFIDENTIAL — PREPARED FOR LITIGATION PURPOSES

APPENDIX B

GLOSSARY OF KEY TERMS

Term	Definition
<i>Civil Statutory Capacity</i>	The legal status of a natural person as defined by a particular statute, which determines the scope of that person's rights, obligations, and liabilities under the statute. In the context of the Internal Revenue Code, civil statutory capacity refers to classifications such as "taxpayer" (26 U.S.C. § 7701(a)(14)), "employee" (26 U.S.C. § 3401(c)), and "U.S. person" (26 U.S.C. § 7701(a)(30)). Civil statutory capacity is the jurisdictional predicate — the legal foundation upon which governmental authority to impose specific obligations rests.
<i>Ministerial Act / Duty</i>	An act performed in a prescribed manner and in obedience to a legal authority, without regard to one's own judgment or discretion. A ministerial officer follows prescribed procedures, applies no independent judgment, and exercises no adjudicative authority.

Term	Definition
	<p>The processing of IRS informational forms is a ministerial function: the officer verifies completeness and processes data, but does not make legal determinations about the submitter's status.</p>
<p><i>Discretionary Act / Duty</i></p>	<p>An act requiring the exercise of personal judgment, deliberation, and decision — as distinguished from a ministerial act performed according to a fixed rule. Discretionary acts involve the application of legal standards to facts, the weighing of competing considerations, and the making of choices among permissible alternatives. Adjudication of legal status is a discretionary function, not a ministerial one.</p>
<p><i>Adjudication</i></p>	<p>The formal process of resolving a legal dispute or determining a legal question through an authoritative decision. Adjudication requires, at minimum, a neutral decision-maker, an opportunity for the affected parties to be heard, a decision based on evidence and legal standards, and a reasoned explanation for the outcome. No IRS informational form constitutes or provides an adjudicative process.</p>
<p><i>Due Process (Procedural)</i></p>	<p>The constitutional requirement, arising from the Fifth and Fourteenth Amendments, that the government provide fair procedures before depriving any person of life, liberty, or property. Procedural due process requires, at a minimum, notice of the proposed governmental action, an opportunity to be heard before a neutral decision-maker, and a decision based on evidence and law. The <i>Mathews v. Eldridge</i> three-</p>

Term	Definition
	factor test is the governing framework for evaluating the adequacy of procedural due process.
<i>Compelled Speech</i>	Government action that forces an individual to express, affirm, or endorse a message, belief, or proposition against their will. The First Amendment prohibits compelled speech as a corollary of the right to freedom of expression. <i>See West Virginia State Board of Education v. Barnette</i> , 319 U.S. 624 (1943); <i>Wooley v. Maynard</i> , 430 U.S. 705 (1977). When IRS forms require individuals to certify legal conclusions about their own status under penalty of perjury, this constitutes compelled speech.
<i>Ultra Vires</i>	Latin: "beyond the powers." An act performed by an officer, agent, or entity that exceeds the scope of authority lawfully delegated to that officer, agent, or entity. An ultra vires act is legally void — it has no binding legal effect. When the IRS treats a form submission as a binding status determination, it exceeds its delegated ministerial authority and acts ultra vires.
<i>Election (Tax Law)</i>	A volitional choice made by a taxpayer among options provided by the tax code. Examples include the selection of filing status (Single, Married Filing Jointly, Head of Household) and the decision to itemize deductions versus taking the standard deduction. Elections are voluntary exercises of choice within a statutory framework — they reflect the taxpayer's preference among permissible alternatives. Elections are distinguished from legal

Term	Definition
	conclusions (which involve the application of legal standards to facts) and from factual assertions (which report objective data).
<i>Legal Conclusion vs. Factual Assertion</i>	A factual assertion is a statement about an observable, verifiable state of affairs — e.g., "My name is John Smith" or "I received \$50,000 in payments during 2025." A legal conclusion is a statement that applies a legal standard, definition, or rule to facts and renders a judgment — e.g., "I am an employee under 26 U.S.C. § 3401(c)" or "This payment constitutes taxable income under 26 U.S.C. § 61." Legal conclusions require interpretation and analysis; factual assertions require only observation and memory. IRS forms systematically compel legal conclusions while presenting them as if they were factual assertions.
<i>Status Determination</i>	The authoritative resolution of a question regarding a person's legal classification or capacity. A valid status determination requires an adjudicative process that satisfies due process requirements — including notice, hearing, evidence-based decision-making by a neutral adjudicator, and the right to appeal. A ministerial act (such as processing an IRS form) cannot constitute a status determination because it lacks the essential attributes of adjudication.