

PUB/PRI Tax Classification System

Expanded Edition — Effective Connection, Doctrinal Drift, and Supreme Court Crosswalk

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Classification: Analytical Working Paper — Privileged & Confidential

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PART I

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THE PUB/PRI FRAMEWORK — Concise Restatement

Section 1: Core Taxonomy

The PUB/PRI tax classification system provides an alternative analytical lens for understanding the structural logic of federal tax jurisdiction as it existed in the founding era and as it has been progressively reinterpreted. The system identifies two primary constitutional categories — **personPRI** and **personPUB** — defined not by who a person *is*, but by *how* that person acts relative to government-granted privilege.

personPRI — The Private-Capacity Natural Person

A **personPRI** is a natural person acting in a purely private capacity. No government-granted privilege mediates the activity. The person holds natural rights, engages in common-right occupations, and transacts through direct personal effort. Under the founding-era constitutional framework, a personPRI's property and labor are reached only by **DIRECT taxes** — which must be apportioned among the states by population pursuant to Article I, §2, cl. 3 and §9, cl. 4.

The core principle: **a personPRI exchanging labor for compensation is exercising a common right, not a taxable privilege.** The right to pursue an occupation and receive the fruits of one's labor was understood at the founding as an inherent natural right — not a franchise conferred by the state. As the Supreme Court observed in *Butchers' Union Co. v. Crescent City Co.* (1884): "The right to follow any of the common occupations of life is an inalienable right."

personPUB — The Public-Capacity / Privileged Person

A **personPUB** is a person (natural or artificial) acting in a PUBLIC capacity through a government-granted privilege. This includes:

1. **Corporations and other artificial entities** — whose very existence depends on a state charter. The privilege of doing business in corporate form is a government grant; it does not exist in nature.
2. **Natural persons who voluntarily assume a privileged status** — e.g., holding federal office, operating under a federal license, or engaging in activities that require and use a government-granted franchise.

3. **Persons who elect to use tax-advantaged structures** — e.g., forming a 501(c)(3) organization, making an S-corporation election, or operating under a federally chartered framework.

Under this framework, personPUB activities are reached by **INDIRECT taxes** (excises, duties, imposts) which need only be geographically uniform. The tax falls not on the person or property directly, but on **the exercise of the privilege**.

KEY DISTINCTION

The PUB/PRI system draws a structural line:

personPRI

is the default state of a natural person acting in private capacity.

personPUB

is the status assumed when a person

voluntarily connects

to a government-granted privilege. The tax power follows the privilege, not the person. A natural person can move between categories depending on the capacity in which they act.

Section 2: The Constitutional Anchor

The PUB/PRI framework rests on the constitutional tax architecture as originally designed and ratified. The relevant provisions establish two — and only two — categories of federal taxation, each with distinct constitutional constraints:

- **Article I, §8, cl. 1:** "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises." — This clause grants the taxing power and names four instruments.

- **Article I, §2, cl. 3 and §9, cl. 4: Direct taxes** must be apportioned among the several states according to their respective populations. This is a structural protection — it makes broad-based direct taxation on individuals administratively difficult *by design*.
- **Article I, §8, cl. 1 (uniformity clause): All Duties, Imposts, and Excises** shall be uniform throughout the United States. Uniformity is geographical, not substantive.
- **The Sixteenth Amendment (1913):** Authorized Congress to tax "incomes, from whatever source derived" without apportionment. Under the PUB/PRI analysis, this did *not* create a new taxing power; it clarified that income taxes — already recognized as excises on privilege — need not be apportioned regardless of the income's source.

Constitutional Tax Architecture — PUB/PRI Mapping

Tax Type	Constitutional Requirement	Falls On	PUB/PRI Category	Constitutional Basis
Direct Tax (capitation, property)	Must be apportioned by state population	Persons and property AS SUCH	personPRI	Art. I, §2, cl. 3; Art. I, §9, cl. 4
Indirect Tax — Duties	Must be uniform throughout the U.S.	Imports / trade activities	personPUB (trade privilege)	Art. I, §8, cl. 1
Indirect Tax — Imposts	Must be uniform throughout the U.S.	Foreign commerce	personPUB (commerce privilege)	Art. I, §8, cl. 1
Indirect Tax — Excises	Must be uniform throughout the U.S.	Privileges, activities, consumption	personPUB (gov't-granted privilege)	Art. I, §8, cl. 1
Income Tax (post-16th Amendment)	No apportionment required; must be	Income "from whatever source derived"	personPUB (excise on privileged activity,	16th Amendment; <i>Brushaber</i> (1916)

Tax Type	Constitutional Requirement	Falls On	PUB/PRI Category	Constitutional Basis
	uniform		measured by income)	

STRUCTURAL INSIGHT

The constitutional architecture creates a deliberate asymmetry. Taxing

personPRI

(direct taxation) requires apportionment — a cumbersome mechanism that limits the practical reach of federal power over private individuals. Taxing

personPUB

(indirect taxation) requires only uniformity — a far simpler constraint. This asymmetry was intentional: it protects natural persons acting in private capacity from easy federal taxation while permitting Congress to tax privileged activities efficiently.

PART II

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EXPANDED ANALYSIS

Section A: Effective-Connection Diagram

The Effective-Connection Mechanism: personPRI → personPUB Conversion

The following diagram illustrates the structural mechanism by which a natural person transitions from **personPRI** (private capacity, protected by the apportionment requirement) to **personPUB** (privileged capacity, subject to excise taxation). The conversion is always *voluntary* — it occurs when the person assumes a government-granted privilege.

STARTING STATE: personPRI

Natural person acting in private capacity.
Exercises common rights. No government privilege involved.
Subject only to apportioned direct taxes (Art. I, §2, cl. 3; §9, cl. 4).



◆ **DECISION GATE 1** ◆

Does the person voluntarily assume a government-granted privilege?

Examples: Incorporating a business • Obtaining a federal license • Accepting federal office • Operating under a government franchise • Electing a tax-advantaged structure (501(c)(3), S-corp, etc.)

NO → Remains **personPRI** No privilege assumed. Apportionment protection intact. **YES** ↓ Proceed to Effective Connection.



◆ **DECISION GATE 2** ◆

Does the person engage in activity that is INHERENTLY PUBLIC or

regulated by federal authority?

Examples: Interstate commerce requiring federal regulation • Operating in a federally chartered industry • Receiving federal benefits or entitlements creating reciprocal obligations

NO → Remains **personPRI** No public nexus established. Common-right activity only.

YES ↓ Proceed to Effective Connection.



EFFECTIVE CONNECTION ESTABLISHED

The person's activity is now connected to a government-granted privilege.
The connection attaches to the **ACTIVITY**, not to the person's existence.
The person is now acting in a public/privileged capacity *with respect to that activity*.



Voluntary assumption of privilege

RESULTING STATE: personPUB

Person acting in public/privileged capacity.
Subject to excise taxation (indirect tax) measured by income derived from the privileged activity.
Tax is uniform geographically (Art. I, §8, cl. 1). No apportionment required.

⚠ Key Principle:

The tax does **NOT** fall on the person. It falls on the **EXERCISE OF THE PRIVILEGE**. The person can shed personPUB status by relinquishing the privilege — dissolving the corporation, surrendering the license, resigning the office.

Constitutional Basis — *Flint v. Stone Tracy Co.* (1911):

"An excise upon the particular privilege of doing business in a corporate capacity." The corporate form is a government grant; using it is the taxable event. The tax is measured by income, but it is *not* a tax on income per se — it is a tax on the privilege, with income as the measure.

Constitutional Basis — *Brushaber v. Union Pacific R.R.* (1916):

The Sixteenth Amendment "does not purport to confer power to levy income taxes in a generic sense" — that authority already existed. The Amendment relieved income taxes from apportionment, but it did not convert excises on privilege into a universal tax on existence.

Analytical Commentary

The effective-connection mechanism reveals the structural logic that the modern tax system obscures. Federal income taxation was never designed to reach personPRI — the natural person exchanging labor for compensation in the exercise of a common right. It reaches personPUB — the person who has voluntarily connected to a government-granted privilege. The corporation exists only because the state says it does; its income is taxable as an excise on that privilege. A natural person who incorporates, obtains a federal license, or otherwise steps into a

privileged framework becomes personPUB with respect to that activity. **The tax is on the doing, not the being.**

This distinction is not merely theoretical. It has operational consequences. If the income tax is an excise on privilege — as *Flint*, *Brushaber*, and *Stanton* all confirm — then the threshold question in every tax analysis should be: *Is there a privilege?* If the answer is yes, the excise applies. If the answer is no, only an apportioned direct tax can constitutionally reach the person. The effective-connection diagram formalizes this inquiry.

Section B: Doctrinal-Drift Timeline

Doctrinal Drift: From Founding-Era Precision to Modern Ambiguity

Thesis: The founding generation drew a bright line between direct taxes (on persons and property AS SUCH) and indirect taxes (on activities and privileges). Over 230 years, judicial interpretation, legislative expansion, and administrative practice have progressively blurred this line — converting what was originally a tax on privileged activity (personPUB) into what functions as a universal tax on existence (treating everyone as personPUB by default).

The timeline below traces this drift through twelve pivotal moments, identifying five major departure points (marked with ⚠️) where the founding-era PUB/PRI line was materially eroded.

1787

Constitutional Convention

The Framers embedded two structural constraints on the federal taxing power: direct taxes must be apportioned among the states by population; indirect taxes (duties, imposts, excises) must be uniform throughout the United States. The constitutional taxonomy assumed that most citizens — personPRI — would rarely encounter federal taxation. Excises were understood to fall on specific commodities, licensed activities, and government-granted privileges. The ordinary citizen, engaged in common-right occupations, was insulated from federal tax by the apportionment barrier.

PUB/PRI: The line between personPRI and personPUB was clear and structural. The Constitution itself encodes the distinction.

1791

Whiskey Excise — First Federal Excise Tax

Congress imposed a tax on distilled spirits — a manufactured commodity produced and sold in commercial channels. This was a classic excise: a tax on the production and sale of a specific product, falling only on those engaged in the commercial activity of distilling. The tax did not fall on the person as such; it fell on the activity of commercial production. Subsistence farmers who distilled for personal use were not the target. The tax triggered the Whiskey Rebellion (1794), but its constitutional category was never in serious dispute: it was an indirect tax, requiring only geographic uniformity.

PUB/PRI: Pure personPUB taxation. The excise targeted a privileged commercial activity, not personPRI subsistence.

1796

Hylton v. United States

The Supreme Court held that a federal tax on carriages was an indirect tax (excise), not a direct tax, because it fell on the *use* of carriages rather than on property ownership as such. The Court narrowly defined "direct taxes" as essentially capitations and taxes on land. Justice Chase: "I am inclined to think... that the direct taxes contemplated by the Constitution, are only two, to wit, a capitation, or poll tax, simply, without regard to property, profession, or any other circumstance; and a tax on land."

PUB/PRI: Confirmed the core distinction. Taxes on ACTIVITIES (use, consumption, privilege) = indirect = personPUB domain. Taxes on BEING and OWNING = direct = personPRI domain.

1861–1872

Civil War Income Taxes

Congress enacted the first federal income taxes (Revenue Acts of 1861, 1862, 1864) to fund the Union war effort. These were understood and administered as excises — indirect taxes on gains derived from privileged activities, property income, and certain compensation. They were not apportioned. The Supreme Court later upheld them in *Springer v. United States* (1881) as indirect taxes consistent with the constitutional framework. The taxes expired in 1872 and were not renewed.

PUB/PRI: Still within the personPUB framework. Income taxation was conceived as an excise on privilege, not a universal tax on labor. The temporary, wartime character reinforced the understanding that income taxes were extraordinary measures, not a permanent feature of the personPRI experience.

1895 — ⚠ FIRST MAJOR DRIFT

Pollock v. Farmers' Loan & Trust Co.

The Supreme Court EXPANDED the definition of "direct tax" to include taxes on income derived from property (real estate, personal property). The Court held that a tax on income from property was effectively a tax on the property itself — therefore direct, and therefore requiring apportionment. This made a general income tax on property income practically impossible without a constitutional

amendment. **However:** the Court *preserved* the rule that a tax on income from employment or business activity remained an excise (indirect tax). The Pollock decision thus drew a new line within the income-tax category: property income = direct tax territory; employment/business income = excise territory.

PUB/PRI: Pollock actually REINFORCED the PUB/PRI line in one respect — income from labor/employment was still an excise (personPUB activity). But it created a crisis by making property-income taxation constitutionally impractical, prompting the drive for the Sixteenth Amendment.

1909 ✓

Corporation Excise Tax Act

Congress imposed a 1% tax on corporate net income, explicitly framed as "a special excise tax with respect to the carrying on or doing business by such corporation." The statute's language was precise and deliberate: the tax was *not* on income per se, but on *the privilege of operating in corporate form*, measured by income. This was the purest legislative expression of personPUB taxation in the income-tax context.

PUB/PRI: Crystal-clear personPUB. The corporate form is a government-granted privilege; the tax falls on exercising it. The measure (income) is not the subject (privilege).

1911 ✓

Flint v. Stone Tracy Co.

The Supreme Court unanimously upheld the Corporation Excise Tax Act as a valid indirect tax. The Court's holding: the tax was "an excise upon the particular privilege of doing business in a corporate capacity." Key language: "The thing taxed is not the mere dealing in merchandise... but the privilege of so doing in a corporate capacity." The Court distinguished corporations from "private individuals or partnerships," recognizing that the corporate form carries advantages — limited liability, perpetual succession, centralized management — that "do not exist when the same business is conducted by private individuals."

PUB/PRI: Definitive personPUB case law. The Court's language maps perfectly to the PUB/PRI framework: corporations are personPUB; their income is taxable because their form is a privilege. Private individuals acting without corporate privilege are in a different constitutional category.

1913 — ⚠️ SECOND MAJOR DRIFT POINT

Ratification of the Sixteenth Amendment

The Sixteenth Amendment was ratified to reverse the practical effect of *Pollock*. Its text: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." The Amendment's immediate purpose was clear: to remove the apportionment obstacle that *Pollock* had erected for income-from-property taxes. **But its long-term effect was more consequential:** the phrase "from whatever source derived" planted the interpretive seed for treating *all* income as taxable without first asking whether a privilege exists.

PUB/PRI: The Amendment itself did not destroy the PUB/PRI line. Brushaber (1916) confirmed it created no "radical and destructive changes." But the Amendment's broad language — "from whatever source" — became the textual anchor for the

eventual collapse of the privilege inquiry. The seed of drift was constitutional, even if the drift itself was interpretive.

1916 ✓ LAST CLEAR STATEMENT

Brushaber v. Union Pacific Railroad Co.

Chief Justice Edward White, writing for the Court, delivered what remains the most definitive judicial statement of the income tax's constitutional character. Key holdings: (1) The Sixteenth Amendment "does not purport to confer power to levy income taxes in a generic sense — an authority already possessed and never questioned." (2) The Amendment's purpose was "not to create radical and destructive changes in our constitutional system of government" but "to simplify the situation and make clear the limitation on the taxing power." (3) Income taxes remain excises — indirect taxes — subject to the uniformity requirement. The Amendment simply removed the apportionment complication that *Pollock* had introduced.

PUB/PRI: Brushaber is the high-water mark for PUB/PRI clarity. Income tax = excise = tax on privilege = personPUB. The Amendment changed the procedural rule (no apportionment needed), not the substantive rule (the tax is still an excise on privilege). This should have been the permanent anchor. It was not.

1918 ✓

Stanton v. Baltic Mining Co.

The Court confirmed that the income tax authorized by the Sixteenth Amendment is "in its nature an excise entitled to be enforced as such." This reinforced *Brushaber's* characterization and left no ambiguity: the income tax is structurally

an excise — a tax on privilege — not a new species of tax or a direct tax exempted from apportionment.

PUB/PRI: Still holding the line. Income tax = excise on privilege = personPUB taxation. Two years after Brushaber, the framework remained intact.

1920

Eisner v. Macomber

The Court defined "income" as "the gain derived from capital, from labor, or from both combined," provided it is "severed from it, and derived or received by the taxpayer for his separate use, benefit, and disposal." This definition introduced two important concepts: (1) the "realization" requirement — gain must be severed from capital before it constitutes income; and (2) the functional definition — income is defined by its economic characteristics, not by its relationship to privilege.

PUB/PRI: The realization requirement preserved some structural limit, but the functional definition began to detach "income" from "privilege." By defining income economically (gain + realization + dominion) rather than structurally (gain from privileged activity), the Court took the first step toward eroding the personPUB boundary — even while nominally preserving it.

1943 — ⚠️ THIRD MAJOR DRIFT

Current Tax Payment Act — Withholding

Congress mandated employer withholding of income taxes from wages. This was presented as an administrative efficiency measure — "pay as you earn" — but its structural effect was transformative. Before withholding, the income tax was

assessed and collected from the taxpayer after the fact; the taxpayer had to affirmatively engage with the tax system. After withholding, the tax is extracted from every paycheck automatically, before the worker ever sees the money. The administrative mechanism presumed that *every wage-earner* is a taxpayer — without asking whether a privilege exists.

PUB/PRI: The withholding system treats every wage-earner as personPUB by default — the single most consequential drift event. It operationally erased the personPRI category without any constitutional amendment authorizing that erasure. The mechanism, not the law, accomplished what no court holding ever stated.

1955 — ! FOURTH MAJOR DRIFT

Commissioner v. Glenshaw Glass Co.

The Court broadened the definition of "income" beyond *Eisner v. Macomber's* formulation to encompass "undeniable accessions to wealth, clearly realized, and over which the taxpayers have complete dominion." This definition divorced "income" entirely from the concept of "privilege." Under *Glenshaw Glass*, anything that makes you wealthier — whether derived from privilege, labor, windfall, or accident — is "income" subject to taxation. The question became *what happened to the money*, not *whether a privilege generated it*.

PUB/PRI: After *Glenshaw Glass*, income is defined by WHAT HAPPENS TO THE MONEY (accession, realization, dominion), not by WHETHER A PRIVILEGE EXISTS. This effectively collapsed personPRI into personPUB for tax purposes — everyone with realized gains is treated as exercising a taxable privilege, even if no privilege exists. The foundational inquiry — "Is there a privilege?" — was replaced by the functional inquiry — "Is there a gain?"

Tax Reform Act of 1986

The comprehensive overhaul broadened the tax base, reduced marginal rates, and eliminated many deductions and shelters. The structural assumption embedded in the legislation: *everyone is a taxpayer*; the only question is how much, not whether. The Code's architecture after 1986 treats universal personPUB status as the baseline — every dollar of "income" (as defined by *Glenshaw Glass*) is presumptively taxable. The concept of personPRI has no operative place in the statutory scheme.

PUB/PRI: The legislative framework now treats personPRI as a null category. The entire Internal Revenue Code assumes universal personPUB status. The privilege inquiry has been legislatively abolished — not by constitutional amendment, but by statutory assumption.

2024

Moore v. United States

The Supreme Court upheld Congress's authority to attribute realized corporate income to shareholders under the Mandatory Repatriation Tax (Tax Cuts and Jobs Act, §965). The Court declined to constitutionally mandate that the individual taxpayer personally "realize" the income; realization by the entity was sufficient. The decision further expanded the reach of the income tax by allowing attribution of corporate-level income to individual shareholders — even absent a distribution or personal realization event.

PUB/PRI: Moore pushed the boundary further — income realized by a corporate entity (personPUB) can be attributed to shareholders whether or not they personally

realized it. The personPRI shareholder is taxed through the personPUB corporate entity's realization. The corporate privilege becomes a conduit for taxing individuals who may have no independent privilege of their own.

ANALYTICAL SUMMARY — THE TRAJECTORY OF DRIFT

The trajectory is unmistakable. What began as a structurally limited excise on government-granted privilege (personPUB only) has been administratively and jurisprudentially expanded into a functionally universal tax on all economic activity — treating every natural person as personPUB by default. The PUB/PRI framework exposes this drift not as an evolution of principle, but as an abandonment of it. The constitutional architecture was designed to protect personPRI from federal taxation except through apportioned direct taxes. That protection was not repealed; it was circumvented — through definitional expansion (*Glenshaw Glass*), administrative mechanism (withholding), and legislative assumption (treating all income as taxable regardless of privilege).

Section C: Supreme Court Terminology Crosswalk

Crosswalk: PUB/PRI System ↔ Supreme Court Tax Terminology

The PUB/PRI classification system is not an invention — it is a reconstruction. The Supreme Court's own terminology, when read carefully, maps onto the PUB/PRI distinction with remarkable precision. The crosswalk below demonstrates that the Court's foundational cases drew exactly the line that PUB/PRI formalizes — and that subsequent cases progressively obscured it.

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
personPRI	"Private individual," "natural person" acting in private capacity	<i>Flint v. Stone Tracy Co.</i> (1911); <i>Pollock v. Farmers' Loan & Trust Co.</i> (1895)	<i>Flint</i> : Distinguished "private individuals or partnerships" from corporations exercising government-granted privilege. The Court recognized that private persons conducting business without corporate form do not enjoy the same government-conferred advantages.	The Court recognized that private individuals acting without corporate privilege occupy a different constitutional category. The PUB/PRI framework names this category: personPRI — the natural person whose activities are not mediated by government grant.
personPUB	"Artificial entity," "corporation," person exercising "privilege"	<i>Flint v. Stone Tracy Co.</i> (1911); <i>Brushaber v. Union Pacific</i> (1916)	<i>Flint</i> : "The privilege of operating in corporate form is valuable and justifies imposition of an income tax." The corporate charter is a government grant; the business conducted under it is privileged activity.	The corporate form is the paradigmatic personPUB — its existence depends entirely on government grant. Without the charter, there is no corporation. The tax on corporate income is an excise on the privilege of existing and operating in that form.
Effective Connection	"Privilege," "franchise," "excise upon the particular privilege"	<i>Flint v. Stone Tracy Co.</i> (1911); <i>Hylton v. United States</i> (1796)	<i>Flint</i> : "An excise upon the particular privilege of doing business in a corporate capacity." The nexus between the person and	The "effective connection" in PUB/PRI maps exactly to the Court's concept of a taxable "privilege." The connection is what

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
			<p>the government — the privilege — is the taxable connection.</p>	<p>transforms a person from personPRI (no privilege) to personPUB (privilege assumed). Without this connection, there is no constitutional basis for an unapportioned tax.</p>
<p>Direct Tax (personPRI domain)</p>	<p>"Direct tax," "capitation," tax on property "as such"</p>	<p><i>Hylton v. United States</i> (1796); <i>Pollock v. Farmers' Loan & Trust Co.</i> (1895)</p>	<p><i>Hylton</i>: Direct taxes are "capitation taxes and taxes on land." <i>Pollock</i>: A tax on income from property is effectively a direct tax on the property itself and must be apportioned.</p>	<p>Direct taxes reach personPRI — they fall on <i>being</i> and <i>owning</i>, not on privilege. The apportionment requirement is the structural protection for personPRI: it makes direct taxation on private persons practically difficult by constitutional design.</p>
<p>Indirect Tax / Excise (personPUB domain)</p>	<p>"Excise," "duty," "impost," tax on "privilege" or "activity"</p>	<p><i>Hylton</i> (1796); <i>Flint</i> (1911); <i>Brushaber</i> (1916); <i>Stanton v. Baltic Mining</i> (1918)</p>	<p><i>Stanton</i>: The income tax "is in its nature an excise entitled to be enforced as such." <i>Brushaber</i>: Income taxes are indirect taxes subject to the uniformity requirement.</p>	<p>Indirect taxes reach personPUB — they fall on <i>doing</i> and <i>using privilege</i>. The four foundational cases (<i>Hylton</i>, <i>Flint</i>, <i>Brushaber</i>, <i>Stanton</i>) form an unbroken chain establishing income taxation as an excise on</p>

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
<p>Income (PUB/PRI definition)</p>	<p>"Gain derived from capital, from labor, or from both combined"</p>	<p><i>Eisner v. Macomber</i> (1920); <i>Glenshaw Glass Co.</i> (1955)</p>	<p><i>Eisner</i>: Income is gain "severed from capital... derived or received by the taxpayer for his separate use, benefit, and disposal." <i>Glenshaw Glass</i>: "Undeniable accessions to wealth, clearly realized, over which the taxpayers have complete dominion."</p>	<p>privilege.</p> <p>PUB/PRI adds a structural qualifier the modern Court has dropped: income is taxable <i>without apportionment</i> only when derived from privileged activity (personPUB). <i>Glenshaw Glass</i> eliminated this qualifier, defining income purely by economic characteristics. The PUB/PRI framework restores the privilege inquiry.</p>
<p>Common Right (personPRI activity)</p>	<p>"Labor," "employment," "occupation" (pre-<i>Pollock</i> understanding)</p>	<p><i>Butchers' Union Co. v. Crescent City Co.</i> (1884); <i>Yick Wo v. Hopkins</i> (1886)</p>	<p><i>Butchers' Union</i>: "The right to follow any of the common occupations of life is an inalienable right." <i>Yick Wo</i>: The right to work for a living in common occupations is "of the very essence of personal freedom and opportunity."</p>	<p>Common-right labor is a personPRI activity — not a privilege, and therefore not properly subject to excise. The Supreme Court's own pre-income-tax jurisprudence recognized labor as a natural right, not a government grant. Taxing it as an excise requires identifying a privilege;</p>

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
				absent one, the tax is a direct tax requiring apportionment.
<p>Taxable Privilege (personPUB trigger)</p>	<p>"Franchise," "corporate privilege," "license," "doing business in corporate form"</p>	<p><i>Flint v. Stone Tracy Co.</i> (1911); <i>Spreckels Sugar Ref. Co. v. McClain</i> (1904)</p>	<p><i>Flint</i>: "These and other things inhere in the advantages of business thus conducted, which do not exist when the same business is conducted by private individuals or partnerships."</p>	<p>The privilege is what the government GRANTS — corporate form, license, franchise, charter. Without the grant, there is no excise basis. <i>Flint's</i> language could not be more explicit: the corporate privileges "do not exist" for private individuals. The tax attaches to the grant, not to the person.</p>
<p>Apportionment Requirement (personPRI protection)</p>	<p>"No capitation, or other direct tax, shall be laid, unless in proportion to the Census"</p>	<p>Art. I, §9, cl. 4; <i>Pollock v. Farmers' Loan & Trust Co.</i> (1895)</p>	<p>Constitutional text: "No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census." <i>Pollock</i> expanded "direct tax" to include income-from-property taxes.</p>	<p>Apportionment is the constitutional protection for personPRI. It makes direct taxation on private persons practically difficult — by design. The Framers understood that requiring apportionment would make broad-based direct taxes on individuals nearly impossible to administer equitably, thereby protecting</p>

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
				personPRI from easy federal reach.
<p>Uniformity Requirement (personPUB constraint)</p>	<p>"All Duties, Imposts and Excises shall be uniform throughout the United States"</p>	<p>Art. I, §8, cl. 1; <i>Brushaber</i> (1916); <i>Knowlton v. Moore</i> (1900)</p>	<p><i>Brushaber</i>: "The uniformity of taxation required by the federal Constitution is geographical." <i>Knowlton</i>: Uniformity "does not require identical taxes on all persons."</p>	<p>Uniformity constrains personPUB taxation — excises must apply equally across geography, but may classify differently by subject matter. This is a lighter constraint than apportionment, reflecting the constitutional design: taxing privilege is constitutionally easier than taxing persons as such.</p>
<p>16th Amendment (PUB/PRI reading)</p>	<p>"Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment"</p>	<p><i>Brushaber v. Union Pacific</i> (1916); <i>Stanton v. Baltic Mining Co.</i> (1918)</p>	<p><i>Brushaber</i>: The Amendment was enacted "not to create radical and destructive changes in our constitutional system of government" but "to simplify the situation and make clear the limitation on the taxing power." <i>Stanton</i>: Income tax remains "in its nature an excise."</p>	<p>PUB/PRI reads the 16th Amendment as removing the apportionment obstacle for income-as-excise — NOT as converting personPRI into personPUB. The Amendment relieved income taxes from apportionment regardless of source; it did not abolish the privilege requirement. <i>Brushaber</i> and <i>Stanton</i> confirm: the tax's nature (excise on privilege) was</p>

PUB/PRI Term	Supreme Court Equivalent	Key Case(s)	Representative Language	Analytical Note
				unchanged.

What the Crosswalk Reveals

The crosswalk demonstrates that the PUB/PRI framework is not a novel theory imposed on reluctant case law — it is the founding-era logic reconstructed from the Supreme Court's own words. *Flint v. Stone Tracy Co.*, *Brushaber*, and *Stanton* collectively establish that income taxation is an excise on privilege. The PUB/PRI system simply names what the Court described: there are persons who exercise government-granted privileges (personPUB), and there are persons who do not (personPRI). The tax falls on the former.

The doctrinal drift documented in Section B shows how this bright line was progressively obscured — not by constitutional amendment, but by definitional expansion (*Glenshaw Glass*), administrative mechanism (withholding), and legislative assumption (treating all income as taxable regardless of privilege). The PUB/PRI framework cuts through this accretion and asks the question the founding generation would have asked: **Is there a privilege?** If yes, the excise applies. If no, only an apportioned direct tax can reach this person.

This is not a tax-protester argument. It is a structural-constitutional argument grounded in the Court's own precedent. The PUB/PRI system does not deny Congress's power to tax — it insists that Congress exercise that power within the constitutional architecture the Framers designed. The distinction between personPRI and personPUB is not an invention; it is the distinction the Constitution itself draws between direct and indirect taxes, between persons and privileges, between being and doing. The crosswalk shows that the Supreme Court once drew this line with precision. The question is whether it can be drawn again.

FOR STRATEGIC ADVOCACY

The PUB/PRI framework provides a structured vocabulary for arguments that the current income-tax regime operates outside its constitutional boundaries when applied to personPRI — the natural person acting without government-

granted privilege. The crosswalk table above supplies the doctrinal anchors; the drift timeline supplies the narrative of departure. Together, they frame the argument not as a rejection of federal taxing power, but as a demand for its constitutional exercise.

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Analysis

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