

Foreword

That the present monetary system does not suit the economic needs of communities is increasingly acknowledged today. Just a few of the system's failures are:

- that over 95 percent of all foreign exchange transactions are of a purely speculative nature, against less than 5 percent for investments and trade for goods and services around the world;
- that most national currencies are devaluing at widely fluctuating rates, making trades between them difficult or almost impossible (even the so-called First World countries are suffering from such "inflation pressures");
- that world debt (private and public) has been increasing at an exponential rate—in the United States alone this debt is 16 trillion dollars or \$62,000 per person.

Perhaps the most important concern for the world today, then, is to plan a new system that will replace it. How will this new global system work and how will we start to build it? Although the overarching need is for a global system that is stable and universally acceptable, the first step in that direction will have to be taken by small communities or at the regional level. These small steps are already being taken. We are fortunate that Professor Solomon provides a history of small steps, beginning with prerevolutionary scrip, toward a decent monetary system, and an outline of the practical steps that can be taken in almost any community.

Few people realize how important a good money exchange system is, not only for community welfare but also for the health of the natural environment. A local currency can have an incubator effect—it encourages local production and responsibility to one another and the local ecology. Even fewer people are aware that they can create such a money system—“it’s illegal, isn’t it, to create a local exchange system?” Professor Solomon, with the help of his students at The George Washington University, has put to rest this superstition that “only the government can create money.” This book lays out many possibilities for local economic renewal that can be immediately realized in any community or neighborhood—“life boats” which will increase local trade of local goods and services. It is important to deemphasize national currencies and trade that distance us from the production process and take from us the control of our local economies. This book suggests many other money systems which will devolve economic control and can absorb the shock waves of financial collapse.

Anyone who lived through the Great Depression of the 1930s knows how destructive financial shock waves can be. But it was precisely because of the Great Depression that experiments in the use of local scrip, like those described in this book, were initiated and are now being revived. We are indeed grateful to Professor Solomon and his students for updating us on the history of scrip in the United States, and for pointing the way out of the present financial morass.

As someone who has been involved in local currency experiments, I know how rewarding it is to participate in a successful local currency program. The new local currency movement makes me feel that something genuinely new and liberating is taking place and, with it, hope is reignited.

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38. Hayek, *An Analysis*, 44–45.
39. *Ibid.*, 40–41, 84–85.
40. *Ibid.*, 51.
41. *Ibid.*, 92.
42. Lawrence H. White, "What Kinds of Monetary Institutions Would a Free Market Deliver," *Cato Journal* 9 (Fall 1989): 367; Bart Taub, "Private Fiat Money with Many Suppliers," *Journal of Monetary Economics* 16 (September 1985): 195.
43. Richard N. Cooper, "Is Private Money Optional?" *Cato Journal* 9 (Fall 1989): 393.
44. Selgin, *The Theory of Free Banking*, 151.
45. Roland Vaubel, "Currency Competition versus Governmental Money Monopolies," *Cato Journal* 5 (Winter 1986): 927; Selgin, *The Theory of Free Banking*, 151.
46. Benjamin Klein, "The Competitive Supply of Money," *Journal of Money, Credit and Banking* 6 (November 1974): 423.
47. Selgin, *The Theory of Free Banking*, 151.
48. Hayek, *An Analysis* (see chap. 2, n. 35).
49. Friedman and Schwartz, "Has Government Any Role in Money?" 45–46 (see chap. 2, n. 8).
50. *Ibid.*, 49. White adds: "It is doubtful that a parallel monetary system could gain much of a foothold even in the absence of legal impediments, because of the natural tendency of money users in a region to converge on a common monetary unit. Each trader finds it most convenient to hold the money that he believes others will most likely accept in the near future, which normally is the money they have been accepting in the immediate past, even if that money is depreciating." White, *Competition and Currency*, 64.
51. Milton Friedman, "Monetary Policy: Tactics versus Strategy," in *The Search for Stable Money*, ed. James A. Dorn and Anna J. Schwartz (Chicago: University of Chicago Press, 1987), 374.

CHAPTER 7

1. James W. Hurst, *A Legal History of Money in the United States, 1774–1970* (Lincoln: University of Nebraska Press, 1973), 8–18.
2. Joseph Story, *Commentaries on the Constitution of the United States* (Littleton, Colo.: F. B. Rothman, 1991), sec. 1118.
3. *Ibid.*, sec. 1119. Also see Edwin Vieira, Jr., *Pieces of Eight* (Fort Lee, N. J.: Sound Dollar Committee, 1983), 5–18.
4. U.S. Constitution, art. 1, sec. 10, cl. 1.
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*, art. 1, sec. 8, cl. 2.
8. *Ibid.*, art. 1, sec. 8, cl. 5.
9. *Ibid.*, art. 1, sec. 8, cl. 6.
10. Vieira, *Pieces of Eight*.
11. *Ibid.*, 39–40.
12. U.S. Constitution, art. 1, sec. 8, cl. 5.

13. U.S. Articles of Confederation, art. 10.
14. The anticounterfeiting provision, U.S. Constitution, art. 1, sec. 8, cl. 5, reinforces the Framers' intent to limit "Money" to coin. By distinguishing between "the Securities and current Coin of the United States," the Constitution authorizes the United States Congress to punish counterfeiting "Money" of the United States, composed of "regulate[d]" domestic and foreign "Coin," and "Securities" which are promises to pay "borrow[ed] Money." Vieira, *Pieces of Eight*, 87.
15. U.S. Constitution, art. 1, sec. 10, cl. 1.
16. *Records of the Federal Convention of 1787*, ed. Michael Farrand (1966).
17. *The Legal Tender Cases*, 79 U.S. 457 (1871).
18. U.S. Constitution, art. 1, sec. 8, cl. 5.
19. *U.S. Stats. at Large* 1 (1792): 246.
20. *Annals of the Congress of the United States, 1789–1824* (Washington, D. C., 1834–1856) 2: 2112.
21. Vieira, *Pieces of Eight*, 95–98.
22. Roland P. Faulkner, "The Private Issue of Token Coins," *Political Science Quarterly* 16 (1901): 316, 324; Herbert E. Feavearyear, *The Pound Sterling* (London: Oxford University Press, 1932), 157, 192, 296; Opinion of the Attorney General (1888) 19:98.
23. *Thorington v. Smith*, 75 U.S. 1 (1869).
24. *Ibid.*, 11.
25. *Chapman v. Cole*, 78 Mass. 141 (1858).
26. *United States v. Van Auken*, 96 U.S. 366 (1877).
27. *Hollister v. Mercantile Institution*, 111 U.S. 62 (1884).
28. *Van Auken*, 367–368.
29. *Hollister*, 65.
30. Vieira, *Pieces of Eight*, 28, n. 142.
31. Horace White, *Money and Banking* (Boston: Ginn and Company, 1935), 34.
32. *Ibid.*
33. *Ibid.*
34. *Ibid.* Five-dollar pieces ranged in value from \$4.36 to \$5. *Ibid.*
35. *U.S. Stats. at Large* 13 (1864): 120.
36. *Rev. Stat. U.S.*, sec. 5461 (1873).
37. *U.S. Stats. at Large* 35 (1909): 1120.
38. *U.S. Stats. at Large* 62 (1948): 709.
39. U.S. Senate, Special Committee on the Revision of the Laws, 60th Cong., 1st sess., 1908, S. Rept. 10; U.S. House, Committee on the Judiciary, 80th Cong., 1st sess., 1947, H.R. Rept. 304; U.S. Senate, Committee on the Judiciary, 80th Cong., 2d sess., 1948, S. Rept. 1620.
40. *U.S. Code*, vol. 18, sec. 486 (1988).
41. *U.S. Code*, vol. 18, sec. 491 (1995) provides: "Whoever makes, issues, circulates, or pays out any note, check, memorandum, token, or other obligation for a less sum than \$1, intended to circulate as money or to be received or used in lieu of lawful money of the United States, shall be fined . . . or imprisoned not more than six months, or both."
42. *United States v. Gellman*, 44 F. Supp. 360 (1942).
43. *Ibid.*, 364.
44. *United States v. Roussopolous*, 95 F. 977 (1899).

45. *Ibid.*, 978.
46. *State v. Quackenbush*, 108 N.W. 953 (Minn. 1906).
47. *Ibid.*, 955.
48. *Anchorage Centennial Dev. Co. v. Van Wormer & Rodriguez*, 443 P. 2d 596 (Alaska 1968).
49. *Ibid.*, 598.
50. *Gellman*, 364.
51. *United States v. Falvey*, 676 F. 2d 871 (1982). The court stated that "the primary concern of Congress [in enacting the 1864 act] seems to have been with the prohibition of private systems of coinage created for use in competition with the official United States coinage." *Falvey*, 876.
52. *U.S. Code*, vol. 18, secs. 471-509 (1988).
53. (a) Whoever, being 18 year of age or over, not lawfully authorized, makes, issues, or passes any coin, card, token, or device in metal, or its compounds, intended to be used as money, or whoever, being 18 years of age or over, with intent to defraud, makes, utters, inserts, or uses any card, token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States or any coin or other currency not legal tender in the United States, to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstiles, fare box, coinbox telephone, parking meter or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States, shall be fined not more than \$1,000, or imprisoned not more than one year, or both.
- (b) Whoever manufactures, sells, offers, or advertises for sale, or exposes or keeps with intent to furnish or sell any token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States, or any token, disk, paper, or other device issued or authorized in connection with rationing or food and fiber distributed by any agency of the United States, with knowledge or reason to believe that such tokens, slugs, disks, devices, papers, or other things are intended to be used unlawfully or fraudulently to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter, or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States shall be fined not more than \$1,000 or imprisoned not more than one year, or both. *U.S. Code*, vol. 18, sec. 491 (1988).
54. *Ibid.*
55. *Ibid.*
56. *Gellman*, 364.
57. *Van Wormer*, 597-598.
58. *United States v. Smith*, 318 F. 2d 94 (1963).
59. *Ibid.*, 95.
60. *Ibid.*, 96.
61. *Wholesale Vendors of Texas, Inc. v. United States*, 361 F. Supp. 1045, 1047 (N.D. Tex. 1973).
62. Edward J. Devitt, Charles B. Blackmar, and Michael A. Wolff, *Federal Jury*

- Practice and Instructions: Civil and Criminal* (St. Paul, Minn.: West Publishing Co., 1987), sec. 52.10).
63. *Craig v. State of Missouri*, 29 U.S. 410 (1830).
64. *Ibid.*, 432.
65. *Ibid.*
66. *Briscoe v. Bank of Kentucky*, 36 U.S. 257 (1837).
67. *Ibid.*, 314.
68. *Poindexter v. Greenhow*, 114 U.S. 270 (1885).
69. *Ibid.*, 284.
70. *Houston and Texas Central Railroad v. Texas*, 177 U.S. 66 (1900).
71. *Briscoe v. Bank of Kentucky*, 36 U.S. 257 (1837).
72. *Darrington v. Bank of Alabama*, 54 U.S. 12 (1851); *Curran v. Arkansas*, 56 U.S. 304 (1854).
73. *Briscoe v. Bank of Kentucky*, 36 U.S. 257 (1837).
74. *Woodruff v. Trapnall*, 51 U.S. 190 (1851).
75. *Police Jury v. Britton*, 82 U.S. 566, 570 (1872).
76. *The Mayor v. Ray*, 86 U.S. 468, 475, 478 (1873).
77. *Briscoe*, 257 (1837).
78. *Ibid.*, 348.
79. *Act of Feb. 25, 1863, U.S. Stats. at Large* 12: 665.
80. *Act of Mar. 3, 1863, U.S. Stats. at Large* 12: 709.
81. *Act of June 30, 1864, U.S. Stats. at Large* 13: 223, 277.
82. *Act of Mar. 3, 1865, U.S. Stats. at Large* 13: 469, 484.
83. *Act of July 13, 1866, U.S. Stats. at Large* 14: 98, 146.
84. *Veazie Bank v. Fenno*, 75 U.S. 533 (1869).
85. *Act of Mar. 26, 1867, U.S. Stats. at Large* 15: 6.
86. *Act of Feb. 8, 1875, U.S. Stats. at Large* 18: 307, 311.
87. Opinion of the Attorney General (1893) 20: 534.
88. *National Bank v. United States*, 101 U.S. 1 (1879).
89. U.S. Department of Commerce, *Historical Statistics of the United States: Colonial Times to 1970* (Washington, D.C.: GPO, 1975), 1027, 1030.
90. *Ibid.*
91. *Hollister*, 111 U.S. 62 (1884).
92. *Ibid.*, 65.
93. *Ibid.*
94. Opinion of the Attorney General (1893) 20: 681.
95. Opinion of the Attorney General (1888) 19: 98.
96. *Ibid.*
97. *U.S. Stats. at Large* 90 (1976): 1520.
98. *U.S. Stats. at Large* 90 (1976): 1814.
99. U.S. House Committee on Ways and Means, *Tax Reform Act of 1976*, 94th Cong., 2d sess. (1976) H. R. Rept. 94-658, 526; U.S. Senate Finance Committee, *Tax Reform Act of 1976*, 94th Cong., 2d sess. (1976) S. Rept. 94-938, 406.
100. Arthur Nussbaum, *A History of the Dollar* (Boston: Ginn and Company, 1957), 130-131.
101. *U.S. Stats. at Large* 31 (1900): 45.
102. *U.S. Stats. at Large* 48 (1933): 112-113.
103. *U.S. Stats. at Large* 48 (1934): 337, 340.

104. Roosevelt, Presidential Statement (see chap. 2, n. 26).
105. *Perry v. United States*, 294 U.S. 330 (1935); *Nortz v. United States*, 294 U.S. 317 (1935); *Norman v. Baltimore & O.R.R.*, 294 U.S. 240 (1935) (consolidated for review with *United States v. Bankers Trust Co.*).
106. *Norman*.
107. *Nortz; Perry*.
108. *Norman*, 303.
109. *U.S. Stats. at Large* 91 (1977): 1227, 1229.
110. *Par Value Modification Act Amendments*, *U.S. Stats. at Large* 87 (1973): 352.
111. See n. 108.
112. For example, see *Arkansas Code Annotated* (Michie 1993), sec. 11-4-403; *California Labor Code* (West 1993), sec. 212; *Colorado Revised Statutes*, sec. 8-4-102; *District of Columbia Code Annotated*, sec. 36-102; *Indiana Code Annotated* (Burns 1994), sec. 22-2-4-2; *Kentucky Revised Statutes Annotated*, sec. 244 (1993); *Nevada Revised Statutes Annotated* (Michie 1993), sec. 608.120; *Oklahoma Statutes*, sec. 165.2 (1994); *Tennessee Code Annotated*, sec. 50-2-102; *Texas Revised Civil Statutes Annotated*, sec. 5159b; *Vermont Statutes Annotated*, sec. 343; *Virginia Code Annotated* (Michie 1994), sec. 40.1-29.
113. *Florida Statutes Annotated* (West 1994), sec. 831.26. The Massachusetts statute provides: "Whoever issues or passes a note, bill, order or check, other than foreign bills of exchange, the notes or bills of a bank incorporated by the laws of this commonwealth, of the United States, of some one of the United States . . . , with the intent that the same shall be circulated as currency, shall be punished by a fine of fifty dollars" (Mass. Gen. L. ch. 267, sec. 21 (West 1993)). A similar fine is imposed on the issuance or passing of a small note; that is, for an amount less than five dollars (Mass. Gen. L. ch. 267, sec. 22 (West 1993)).
114. *Virginia Code Annotated* (Michie 1994), sec. 6.1-330.52. The Arkansas statute provides: "No person unauthorized by law shall intentionally create or put in circulation, as a circulating medium, any note, bill, bond, check, or ticket, purporting that any money or bank notes will be paid to the receiver, holder, or bearer, or that it will be received in payment of debts or to be used as a currency or medium of trade in lieu of money." The issuer is subject to criminal fine and imprisonment. *Arkansas Code Annotated* (Michie 1994), sec. 4-17-102.
115. *Virginia Code Annotated* (Michie 1994), sec. 6.1-330.49.
116. *Vermont Statutes Annotated* (1993) tit. 11, secs. 921 to 938.
117. *Vermont Statutes Annotated* (1993) tit. 13, sec. 1805.
118. Kenneth E. Scott, "The Patchwork Quilt: State and Federal Roles in Bank Regulation," *Stanford Law Review* 32 (1980): 687; Howard H. Hackley, "Our Baffling Banking System," *Virginia Law Review* 52 (1966): 565.
119. *U.S. Code*, vol. 12, sec. 282 (1988).
120. *U.S. Code*, vol. 12, sec. 1814(b) (1988).
121. *U.S. Stats. at Large* 38 (1913): 251.
122. *U.S. Stats. at Large* 18 (1874): 123.
123. *U.S. Stats. at Large* 64 (1950): 873.
124. *U.S. Code*, vol. 12, sec. 321 (1988).
125. *U.S. Code*, vol. 12, sec. 1814(b) (1988).
126. William H. Schlichting et al., *Banking Law* (New York: Matthew Bender, 1994), sec. 1.05(1)).

127. For a more in-depth discussion of state banking laws, see Scott, "The Patchwork Quilt"; Hackley, "Baffling Banking System"; Schlichting, *Banking Law*.
128. For a more in-depth discussion of state banking laws, see *ibid.*
129. *U.S. Code*, vol. 12, sec. 110 (1988).
130. *U.S. Code*, vol. 12, sec. 88 (1988).
131. See *U.S. Code*, vol. 12, sec. 221 (1988) (stating that "[w]herever the word 'bank' is used in [title 12 or the Federal Reserve Act], the word shall be held to include State bank, banking association, and trust company, except where national banks or Federal Reserve banks are specifically referred to").
132. See *U.S. Code*, vol. 12, secs. 411-421 (1988).
133. *U.S. Code*, vol. 12, sec. 103 (1988).
134. *U.S. Code*, vol. 12, sec. 104 (1988).
135. *U.S. Code*, vol. 12, sec. 105 (1988).
136. *U.S. Code*, vol. 12, sec. 106 (1988).
137. *Code of Federal Reg.*, vol. 12, part 229 (1994).
138. *U.S. Stats. at Large* 101 (1987): 552, 635.
139. *Ibid.*
140. *Code of Federal Reg.*, vol. 12, parts 229.30-229.42 (1994).
141. *Code of Federal Reg.*, vol. 12, part 229.2(e) (1994).
142. *Code of Federal Reg.*, vol. 12, part 229.2(z) (1994).
143. *Code of Federal Reg.*, vol. 12, part 229.2(k) (1994).
144. *Code of Federal Reg.*, vol. 12, part 210.2(f) (1994).
145. *U.S. Code*, vol. 12, sec. 342 (1988).
146. *Code of Federal Reg.*, vol. 12, part 210 (1994).
147. *Code of Federal Reg.*, vol. 12, part 210.2(f) (1994).
148. *Uniform Comm. Code*, sec. 4-104(7) (1993).
149. *Uniform Comm. Code*, sec. 3-103(6) (1993).
150. *Uniform Comm. Code*, sec. 1-201(24) (1993).
151. *Uniform Comm. Code*, sec. 3-107 (1993).
152. Sheila O'Henev, "Keeping CHIPS Safe and Private," *ABA Banking Journal* (May 1991): 56.
153. *Ibid.*
154. *Ibid.*
155. *Massachusetts General Laws*, ch. 167, sec. 2(25) (Supp. 1994).
156. Georgeann F. Abbanat, Letter to Susan Witt, 6 November 1985.
157. *Arkansas Code Annotated*, sec. 23-32-701(b)(8); *Colorado Revised Statutes Annotated* (West 1993), sec. 11-10-104; *Connecticut General Statutes*, sec. 36-57(i); *District of Columbia Code Annotated*, sec. 26-409; *Georgia Code Annotated*, sec. 7-1-261(1); *Indiana Code*, sec. 28-1-11-2; *Kentucky Revised Statutes Annotated* (Baldwin 1993), sec. 287.210; *Louisiana Revised Statutes Annotated* (West 1993), sec. 6:241(B)(6); *Michigan Compiled Laws*, sec. 487.451(10); *Mississippi Code Annotated*, sec. 81-12-49; *Missouri Revised Statutes*, sec. 362.105; *Montana Code Annotated*, sec. 32-1-107(4); *New York Banking Law*, sec. 100; *Pennsylvania Consolidated Statutes*, sec. 202(a); *Tennessee Code Annotated*, sec. 45-2-1002; *Vermont Statutes Annotated*, sec. 605(7); *Virginia Code Annotated* (Michie 1993), sec. 6.1-17; *West Virginia Code*, sec. 31A-4-14.
158. *U.S. Code*, vol. 15, secs. 77a-77aa (1988). Other federal securities laws include the Securities Exchange Act of 1934, 15 U.S.C. secs. 78a-78kk (1988), Public

Utility Holding Company Act of 1935, 15 U.S.C. secs. 79-79z-6 (1988), Trust Indenture Act of 1939, 15 U.S.C. secs. 77aaa-77bbbb (1988), Investment Advisers Act of 1940, 15 U.S.C. secs. 80b-1-80b-21 (1988), and Investment Advisers Act of 1940, 15 U.S.C. secs. 80b-1-80b-21 (1988).

159. *U.S. Code*, vol. 15, sec. 77e (1988).
160. *U.S. Code*, vol. 15, sec. 77k (1988).
161. *Bellah v. First National Bank*, 495 F. 2d 1109, 1114 (5th Cir. 1974).
162. For a general discussion, see Thomas L. Hazen, *The Law of Securities Regulation* (St. Paul, Minn.: West Publishing Co., 1990), secs. 2.2-2.5.
163. *U.S. Code*, vol. 15, sec. 77e(b)(2) (1988).
164. Louis Loss and Joel Seligman, *Securities Regulation* (Boston: Little, Brown and Company, 1989), 339.
165. *Ibid.*, 340.
166. *Ibid.*
167. *U.S. Code*, vol. 15, sec. 77(b) (1988) (emphasis added).
168. *Reves v. Ernst & Young*, 494 U.S. 56 (1990).
169. *Futura Development Corporation v. Centex Corporation*, 761 F. 2d 33, 40 (1st Cir.), cert. denied, 474 U.S. 850 (1985).
170. *Exchange National Bank v. Touche Ross and Co.*, 544 F. 2d 1126, 1138 (2d Cir. 1976).
171. *Union Planters National Bank v. Commercial Credit Business Loans, Inc.*, 651 F. 2d 1174, 1181-82 (6th Cir.), cert. denied, 454 U.S. 1124 (1981).
172. *Baurer v. Planning Group, Inc.*, 669 F. 2d 770, 778 (D.C. Cir. 1981).
173. *Exchange National Bank v. Touche Ross & Co.*, 544 F.2d 1126 (2d Cir. 1976).
174. *Ibid.*, 1138.
175. *Reves*, 67.
176. "If the seller's purpose is to raise money for the general use of a business enterprise or to finance substantial investments and the buyer is interested primarily in the profit the note is expected to generate, the instrument is likely to be a "security." *Reves*, 66.
177. *Ibid.*, 67.
178. *Ibid.*, 67.
179. *Ibid.*, 66.
180. *Ibid.*, 68, n. 4.
181. *Ibid.*, 67.
182. *Ibid.*, 68.
183. *U.S. Code*, vol. 15, sec. 77(b)(1) (1988).
184. Loss and Seligman, *Securities Regulation*, 900.
185. 50% Cash Back, Inc., *Commerce Clearing House*, 1991-1992, Federal Securities Law Reporter, 14 November 1991, para. 76,115.
186. *SEC v. W.J. Howey*, 328 U.S. 293 (1946).
187. *Ibid.*, 299.
188. *Teamsters v. Daniel*, 439 U.S. 551 (1979).
189. *Ibid.*, 559.
190. See *Rivanna Trawlers Unlimited v. Thompson Trawlers*, 840 F.2d 236, 240 n. 4 (4th Cir. 1988).
191. *United Housing Foundation v. Forman*, 421 U.S. 837 (1975).
192. *Ibid.*, 850.

193. *Ibid.*, 851.
194. *Ibid.*
195. *Ibid.*
196. For example, see *Landreth Timber Co. v. Landreth*, 731 F. 2d 1348 (9th Cir. 1984), *reversed*, 471 U.S. 681 (1985).
197. *Landreth*, 471 U.S. 681 (1985).
198. *U.S. Code*, vol. 15, secs. 77l(2), 77q(a) (1988).
199. Exempted are: Any note, draft, bill of exchange, or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity is likewise limited. *U.S. Code*, vol. 15, sec. 77c(a)(3) (1988).
200. For example, see *Holloway v. Peat, Marwick, Mitchell and Co.*, 879 F. 2d 772, 778 (10th Cir. 1989), *cert. denied*, 498 U.S. 958 (1990).
201. *Reves*, 71.
202. *Ibid.*
203. *Ibid.*, 74.
204. *Ibid.*, 78.
205. *Ibid.*, 73.
206. *Ibid.*
207. *Ibid.*
208. *Guam Civil Code*, sec. 45401(1) (1993).
209. *Puerto Rico Laws Annotated*, tit. 10, sec. 881(1) (1993).
210. *Alaska Statutes*, sec. 45.55.130(12); *Arkansas Code Annotated*, sec. 23-42-102(13); *California Corporation Code*, sec. 25019; *Colorado Revised Statutes Annotated*, sec. 11-51-201(17) (West Supp. 1993); *Connecticut General Statutes*, sec. 36-471(13); *Delaware Code Annotated*, sec. 7302(13); *District of Columbia Code Annotated*, sec. 2-2601(12); *Georgia Code Annotated*, sec. 10-5-2(26); *Hawaii Revised Statutes*, sec. 485-1(13); *Idaho Code*, sec. 30-1402(12); *Illinois Revised Statutes*, ch. 815, para. 5/2.1 (Michie 1994); *Indiana Code Annotated*, sec. 23-2-1-1(k) (Burns 1993); *Iowa Code Annotated*, sec. 502.102(14) (West 1993); *Kansas Statutes Annotated*, sec. 17-1252(j); *Kentucky Revised Statutes Annotated*, sec. 292.310(13) (Baldwin 1993); *Louisiana Revised Statutes Annotated*, sec. 51-702(15) (West 1993); *Maine Revised Statutes Annotated*, sec. tit. XV, sec. 10501(18) (West 1993); *Maryland Code Annotated*, sec. 11-101(p)(1) & (2); *Massachusetts General Laws*, ch. 110A, sec. 401(k); *Michigan Compiled Laws*, sec. 451.801(l); *Minnesota Statutes*, sec. 80A.14; *Mississippi Code Annotated*, sec. 75-71-105(l); *Missouri Revised Statutes*, sec. 409-401(l); *Montana Code Annotated*, sec. 30-10-103(19); *Nebraska Revised Statutes*, sec. 8-1101(13); *Nevada Revised Statutes*, sec. 90-295; *New Hampshire Revised Statutes Annotated*, sec. 421-b:2(XX); *New Jersey Revised Statutes*, sec. 49:3-49(m); *New Mexico Statutes Annotated*, sec. 58-13B-2(v) (Michie 1993); *North Carolina General Statutes*, sec. 78A-2(11); *Oklahoma Statutes*, tit. 71, sec. 2(s) & (t); *Oregon Revised Statutes*, sec. 59.015(17)(a) & (b); *Pennsylvania Statutes Annotated*, sec. 102; *Rhode Island General Laws*, sec. 7-11-101; *South Carolina Code Annotated*, sec. 35-1-20(12) (Law Co-op. 1993); *South Dakota Codified Laws Annotated*, sec. 47-31A-401(m); *Tennessee Code Annotated*, sec. 48-2-102(12); *Texas Civil Code Annotated*, sec. 4.A (West 1993); *Utah Code Annotated*, sec. 61-1-13(22); *Vermont Statutes Annotated*, tit. 9, sec. 4202a(10); *Virginia Code Annotated*, sec.

13.1-501 (Michie 1993); *Washington Revised Code*, sec. 21.20.005(12); *West Virginia Code*, sec. 32-4-401(l); *Wisconsin Statutes*, sec. 551.02(13)(a) - (c); *Wyoming Statutes*, sec. 17-4-113(xi).

211. *Alabama Code*, sec. 8-6-2(10); *Arizona Revised Statutes Annotated*, sec. 44-1801(22); *Florida Statutes Annotated*, sec. 17.021(17) (West 1993); *North Dakota Century Code*, sec. 10-4-02(13); *Ohio Revised Code Annotated*, sec. 1701.01(B) (Baldwin 1993); *Vermont Statutes Annotated*, tit. 9, sec. 4202a(10).

212. *Alabama Code*, sec. 8-6-10(9); *Alaska Statutes*, sec. 45.55.140(4); *Arizona Revised Statutes Annotated*, sec. 44-1843.8; *Arkansas Code Annotated*, sec. 23-42-503(9); *California Corporation Code*, sec. 25100(l); *Colorado Revised Statutes Annotated*, sec. 11-51-307(h) (West Supp. 1993); *Connecticut General Statutes*, sec. 36-490(10); *Delaware Code Annotated*, sec. 7309(10); *District of Columbia Code Annotated*, sec. 2-2601(5)(D); *Florida Statutes Annotated*, sec. 517.051(8) (West 1993); *Georgia Code Annotated*, sec. 10-5-8(9); *Hawaii Revised Statutes*, sec. 485-4(10); *Idaho Code*, sec. 30-1434(j); *Illinois Revised Statutes*, ch. 815, para. 5/3(L) (Smith-Hurd, 1993); *Indiana Code Annotated*, sec. 23-2-1-2(6)(D) (Burns 1993); *Iowa Code Annotated*, sec. 502.202(10) (West 1993); *Kansas Statutes Annotated*, sec. 17-1261(i); *Kentucky Revised Statutes Annotated*, sec. 292.400(10) (Baldwin 1993); *Louisiana Revised Statutes Annotated*, sec. 51-708(9) (West 1993); *Maine Revised Statutes Annotated*, sec. 10502(K) (West 1993); *Maryland Code Annotated*, sec. 11-601(10); *Massachusetts General Laws*, ch. 110A, sec. 402(a)(10); *Michigan Compiled Laws*, sec. 451.802(9); *Minnesota Statutes*, sec. 80A.15(g); *Mississippi Code Annotated*, sec. 75-71-201(10); *Missouri Revised Statutes*, sec. 409-402(10); *Montana Code Annotated*, sec. 30-10-104(9); *Nebraska Revised Statutes*, sec. 8-1110(10); *Nevada Revised Statutes*, sec. 90-520(k); *New Hampshire Revised Statutes Annotated*, sec. 421-B:17(g); *New Jersey Revised Statutes*, sec. 49:3-50(10); *New Mexico Statutes Annotated*, sec. 58-13B-26(I) (Michie 1993); *North Carolina General Statutes*, sec. 78A-16(10); *North Dakota Code*, sec. 10-4-05(7); *Oklahoma Statutes*, tit. 71, sec. 401(9); *Pennsylvania Statutes Annotated*, sec. 202(c); *Rhode Island General Laws*, sec. 7-11-401(11); *South Carolina Code Annotated*, sec. 35-1-310(9) (Law Co-op 1993); *South Dakota Codified Laws Annotated*, sec. 47-31A-402(10); *Tennessee Code Annotated*, sec. 48-2-103(10); *Texas Civil Code Annotated*, sec. 6.H (West 1993); *Utah Code Annotated*, sec. 61-1-14(i); *Vermont Statutes Annotated*, tit. 9, sec. 4203a(7); *Virginia Code Annotated*, sec. 13.1-514.9 (Michie 1993); *Washington Revised Code*, sec. 21.20.310(9); *West Virginia Code*, sec. 32-4-402(10); *Wisconsin Statutes*, sec. 551.22(9); *Wyoming Statutes*, sec. 17-4-114(ix).

213. *U.S. Code*, vol. 15, sec. 77c(a)(4) (1988).

214. *Alabama Code*, sec. 8-6-10(8); *Alaska Statutes*, sec. 45.55.140(10); *Arizona Revised Statutes Annotated*, sec. 44-1843(6); *Arkansas Code Annotated*, sec. 23-42-503(8); *California Corporation Code*, sec. 25100(j); *Colorado Revised Statutes Annotated*, sec. 11-51-307(g) (West Supp. 1993); *Connecticut General Statutes*, sec. 36-490(9); *Delaware Code Annotated*, sec. 7309(9); *District of Columbia Code Annotated*, sec. 2-2601(6)(G); *Florida Statutes Annotated*, sec. 517.051(9) (West 1993); *Hawaii Revised Statutes*, sec. 485-4(9); *Idaho Code*, sec. 30-1434(i); *Illinois Revised Statutes*, ch. 815, para. 5/3(H) (Smith-Hurd, 1993); *Indiana Code Annotated*, sec. 23-2-1-2(10) (Burns 1993); *Iowa Code Annotated*, sec. 502.202(9) (West 1993); *Kansas Statutes Annotated*, sec. 17-1261(h); *Kentucky Revised Statutes Annotated*, sec. 292.400(9) (Baldwin 1993); *Louisiana Revised Statutes Annotated*, sec.

51-708(12) (West 1993); *Maine Revised Statutes Annotated*, sec. 10502(J) (West 1993); *Maryland Code Annotated*, sec. 11-601(9); *Massachusetts General Laws*, ch. 110A, sec. 402(a)(9); *Michigan Compiled Laws*, sec. 451.802(8); *Mississippi Code Annotated*, sec. 75-71-201(9); *Missouri Revised Statutes*, sec. 409-402(9); *Montana Code Annotated*, sec. 30-10-104(8); *Nebraska Revised Statutes*, sec. 8-1110(9); *Nevada Revised Statutes*, sec. 90-520(j); *New Hampshire Revised Statutes Annotated*, sec. 421-B:17(m); *New Jersey Revised Statutes*, sec. 49:3-50(9); *New Mexico Statutes Annotated*, sec. 58-13B-26(H) (Michie 1993); *North Carolina General Statutes*, sec. 78A-16(9); *North Dakota Code*, sec. 10-4-05(5); *Ohio Revised Code Annotated*, sec. 1707.02(I) (Baldwin 1993); *Oklahoma Statutes*, sec. 401(8); *Oregon Revised Statutes*, sec. 59.025(1); *Pennsylvania Consolidated Statutes Annotated*, vol. 70, sec. 1-202(e); *Rhode Island General Laws*, sec. 7-11-401(11); *South Carolina Code Annotated*, sec. 35-1-310(8) (Law Co-op. 1993); *South Dakota Codified Laws Annotated*, sec. 47-31A-402(9); *Tennessee Code Annotated*, sec. 48-2-103(7); *Texas Civil Code Annotated*, sec. 561-6(E); *Utah Code Annotated*, sec. 61-1-14(h); *Vermont Statutes Annotated*, tit. 9, sec. 4203a(5); *Washington Revised Code*, sec. 21.20.310; *West Virginia Code*, sec. 32-4-402(9); *Wisconsin Statutes*, sec. 551.22(8); *Wyoming Statutes*, sec. 17-4-114(viii).

215. Loss and Seligman, *Securities Regulation*, 1199-1201.

216. *U.S. Code*, vol. 15, sec. 77c(a)(11) (1988).

217. Loss and Seligman, *Securities Regulation*, 1294-1307.

218. S.E.C. Rule 504(b)(2).

219. S.E.C. Rule 504(b)(1)-(d).

220. *Treasury Reg.*, sec. 1.61-2.

221. *Cumulative Bulletin* 1979-1, Revenue Ruling 79-24.

222. *Treasury Reg.*, sec. 1-446-1(c)(1)(i).

223. *Cumulative Bulletin* 1983-2, Revenue Ruling 83-163.

224. *U.S. Code*, vol. 26, sec. 6045(c)(3).

225. *Treasury Reg.*, sec. 1.6045-1(a)(4).

226. *Treasury Reg.*, sec. 1.6045-1(e).

227. *Treasury Reg.*, sec. 1.6045-1(3)(2)(i).

228. *Treasury Reg.*, sec. 1.6045-1(g).

229. *Treasury Reg.*, sec. 1.6045-1(e)(2)(ii).

230. *Treasury Reg.*, sec. 1.6045-1(f)(1).

231. *Treasury Reg.*, sec. 1.6045-1(f)(2)(i).

232. *Treasury Reg.*, sec. 1.6045-1(f)(2)(ii).

233. *Internal Revenue Bulletin*, Announcement 1983-23.

234. *Treasury Reg.*, sec. 1.6045-1(f)(3).

235. *Treasury Reg.*, sec. 1.6045-1(f)(3).

236. *Treasury Reg.*, sec. 1.6045-1(f)(4).

237. Private Letter Ruling, No. 85-36-060, 12 June 1985; Edgar Cahn and Jonathan Rowe, *Time Dollars: The New Currency That Enables Americans to Turn Their Hidden Resource—Time—Into Personal Security and Community Renewal* (Emmaus, Pa.: Rodale Press, 1992), 78.

238. *U.S. Code*, vol. 26, sec. 6045(c)(3) (1988).

239. *U.S. Code*, vol. 26, sec. 162(a) (1988 and Supp. IV 1992).

240. *U.S. Code*, vol. 26, sec. 212 (1988).

241. *Cumulative Bulletin* 1980-1, Revenue Ruling 80-52.

242. *Treasury Reg.*, sec. 1-446-1(c)(1)(i).
243. *Treasury Reg.*, sec. 1.446-1(a)(1).
244. *U.S. Code*, vol. 26, sec. 448 (1988).
245. *U.S. Code*, vol. 26, sec. 461(h)(4) (1988); *Treasury Reg.*, sec. 1.461-1(a)(2).
246. *U.S. Code*, vol. 26, sec. 461(h)(1) (1988).
247. *Treasury Reg.*, sec. 1.461-4(d)(4)(ii)(A)-(B).
248. *Treasury Reg.*, secs. 1.263(a)(1)-(2), 1.461-1(a)(1)-(2).
249. For example, see *American Lace Mfg. v. Commissioner*, 8 B.T.A. 419, 420 (1927).
250. For example, see *Deputy v. Dupont*, 308 U.S. 488, 497 (1940); *Old Colony Railroad v. Commissioner*, 284 U.S. 552, 559 (1932).
251. For example, see *Professional Services v. Commissioner*, 79 T.C. 888, 915 (1982).
252. For example, see *First National Co. v. Commissioner*, 289 F. 2d 861 (6th Cir. 1961).
253. For example, see *ibid.*; *Autenreith v. Commissioner*, 115 F. 2d 856 (3d Cir. 1940); *United States v. Virgin*, 230 F. 2d 880 (5th Cir. 1956).
254. Michael Asimow, "The Interest Deduction," *UCLA Law Review* 24 (1977): 749, 772-773.
255. *U.S. Code*, vol. 26, sec. 7701(a)(25) (1988).
256. *Helvering v. Price*, 309 U.S. 409, 414 (1940); *Treasury Reg.*, sec. 1.461-1(a)(1).
257. *U.S. Code*, vol. 26, sec. 461(h)(4) (1988); *Treasury Reg.*, sec. 1.461-1(a)(2).
258. *U.S. Code*, vol. 26, sec. 461(h)(2)(B) (1988).
259. *U.S. Code*, vol. 26, sec. 1273(a)(1).
260. *U.S. Code*, vol. 26, sec. 1273(a)(2).
261. *U.S. Code*, vol. 26, sec. 1273(b).
262. *U.S. Code*, vol. 26, sec. 1272 (1988).
263. *U.S. Code*, vol. 26, sec. 163(e) (1988 and Supp. IV 1992).
264. *U.S. Code*, vol. 26, sec. 1272 (1988).
265. *U.S. Code*, vol. 26, sec. 163(f) (1988).
266. *U.S. Code*, vol. 26, sec. 163(f)(3) (1988).
267. *U.S. Code*, vol. 26, sec. 1(h) (1988). Legislation currently pending in Congress, if enacted, would provide for a maximum tax rate on capital gains for individuals of 19.8 percent.
268. *U.S. Code*, vol. 26, secs. 11, 1201(a)(1) (1988). Legislation currently pending in Congress, if enacted, would provide for a reduced tax rate (25 percent or 28 percent) on capital assets sold by corporations.
269. *U.S. Code*, vol. 26, sec. 1001 (1988).
270. *U.S. Code*, vol. 26, sec. 1221 (1988).
271. *Church's English Shoes*, 24 T.C. 56 (1955), *affirmed on other grounds*, 229 F. 2d 957 (2d Cir. 1956).
272. *U.S. Code*, vol. 26, sec. 1222(3)-(4) (1988).
273. *U.S. Code*, vol. 26, sec. 1222 (1988).
274. *U.S. Code*, vol. 26, sec. 1222(11) (1988).
275. *Ibid.*
276. *U.S. Code*, vol. 26, sec. 1211(b) (1988).
277. *U.S. Code*, vol. 26, sec. 1211(b)(1) (1988).
278. *U.S. Code*, vol. 26, sec. 1212(b) (1988).

279. *U.S. Code*, vol. 26, sec. 1211(a) (1988).
280. *U.S. Code*, vol. 26, sec. 1212(a) (1988).
281. Hayek, *An Analysis*, 43 (see chap. 2, n. 36).

CHAPTER 8

1. Milton Friedman and Anna J. Schwartz, "Has Government Any Role in Money?" *Journal of Military Economics* 17 (1986): 37, 60 (see chap. 2, n. 8).