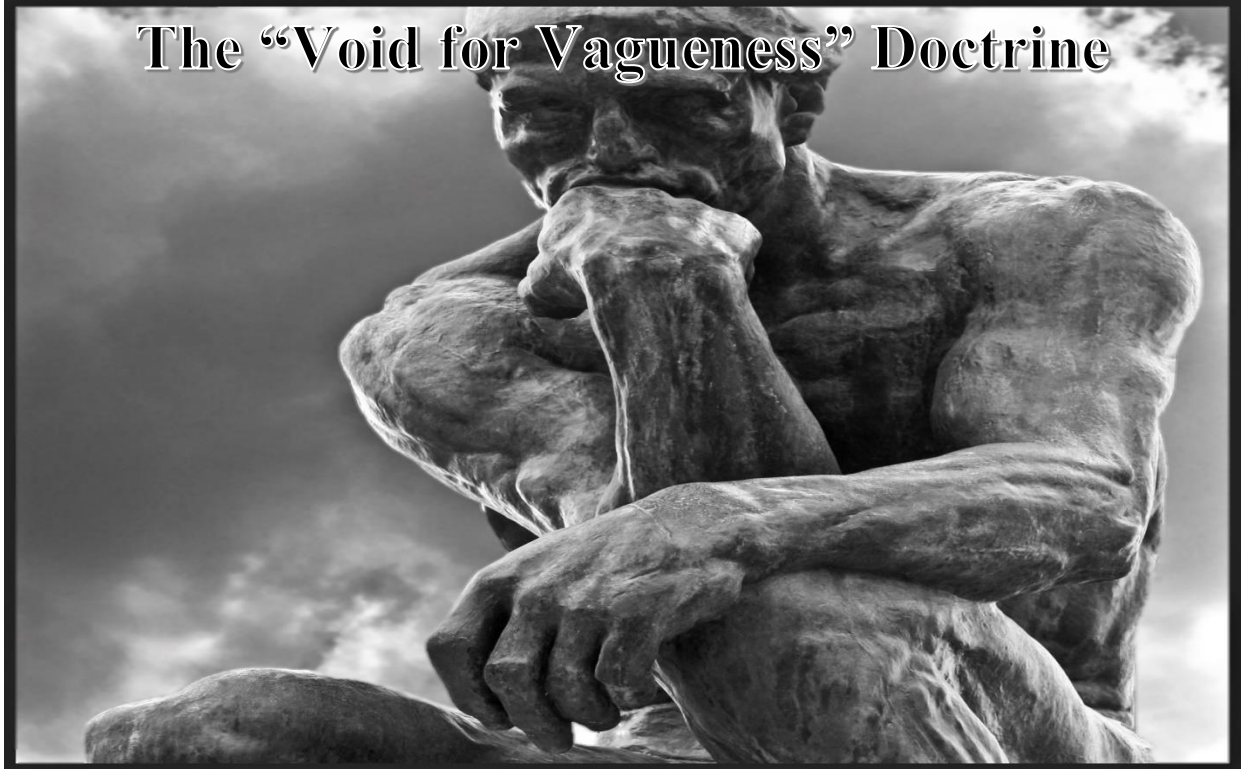


The “Void for Vagueness” Doctrine



*The “void for vagueness” doctrine argues that a law cannot be enforced if it is so vague or confusing that the average person could not figure out what is being prohibited or what the penalties are for breaking that law. Vagueness is generally considered to be a **due process** issue, because a law that is too vague to understand does not provide adequate notice to people that a certain behavior is required or is unacceptable. Defendants’ activities confirms due process issues.*

Vagueness is an argument typically used in criminal cases, when a law that is supposed to prohibit a certain behavior is too vague or confusing for people to understand what behavior they’re supposed to avoid, on penalty of being charged with or convicted of a crime. However, laws that cover civil matters are occasionally challenged for vagueness as well. The IRC has criminal and civil sanctions and penalties.

A law can be unconstitutionally vague in one of two main ways. First, the law may be void for vagueness if it does not adequately explain or state what behavior the law is meant to affect. If the average citizen cannot figure out from reading the law what he should or should not do, a court may find that the law violates due process. Second, a law may be void for vagueness if it does not adequately explain the procedures that law enforcement officers or courts must follow when enforcing the law or handling cases that deal with certain legal issues. Specifically, a law may be found to be unconstitutionally vague if it gives a judge no idea how to approach or handle a case based on that law. Plaintiff’s exhibits, the facts, and controversies will support this vagueness claim.

The following pronouncement of the void for vagueness doctrine was made by Justice Sutherland in Connally v. General Construction Co., 269 U.S. 385, 391 (1926):

[T]he terms of a penal statute [...] must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties... and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.