

Internal Revenue Service

Department of the Treasury

Director
Internal Revenue
Service Center

Philadelphia, PA

P.O. Box 69, Bensalem, PA 19020

▷ Ms. Lynda L. Wall
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980311

MAR 05 1998

• Dear Ms. Wall:

Your letter dated January 13, 1998, to the Internal Revenue Service (IRS), has recently been referred to my office for reply. Your inquiry concerned the authority by which the IRS requires an individual to file a tax return.

It is not the policy of the IRS to respond to letters such as yours on a point by point basis. However, we can supply you with the following general information, which may concern the area of the law that you are addressing. If more information is needed, you may wish to contact the Library of Congress.

The current federal tax law enacted by Congress is the Internal Revenue Code (the Code). Sections 6001 and 6011 of the Code provide, in pertinent part, that every person liable for any tax imposed by the Code shall make a return. In addition, Section 6012 of the Code provides that a federal income tax return shall be made by every individual whose gross income equals or exceeds certain amounts. "Shall" as used in Sections 6001, 6011, and 6012 means "must"; "must" means "to be required to". Who is required by the Code to file a return is explained in the instructions for Form 1040 under the heading "Filing Requirements".

Whether an individual is liable for income tax is determined under Subtitle A of the Code, Chapter 1, Subchapter A - Determination of Tax Liability. Part 1, Section 1, imposes a tax on the taxable income of every individual. Whether an individual has taxable income is determined under Chapter 1, Subchapter B - Computation of Taxable Income. Part 1, Section 63, defines "taxable income", generally, as gross income minus the deductions allowed by Chapter 1.

Wages, salaries, and other forms of compensation for services are includible in gross income under Section 61 of the Code, and hence are subject to income tax by law. The courts have repeatedly rejected the argument that wages and other forms of compensation for services are not subject to federal income tax and have called that argument confused, frivolous, and meritless. See, for example, Schiff v. Commissioner, T.C.M. 1984-223, aff'd, 751 F.2d 116 (2d Cir.1984).

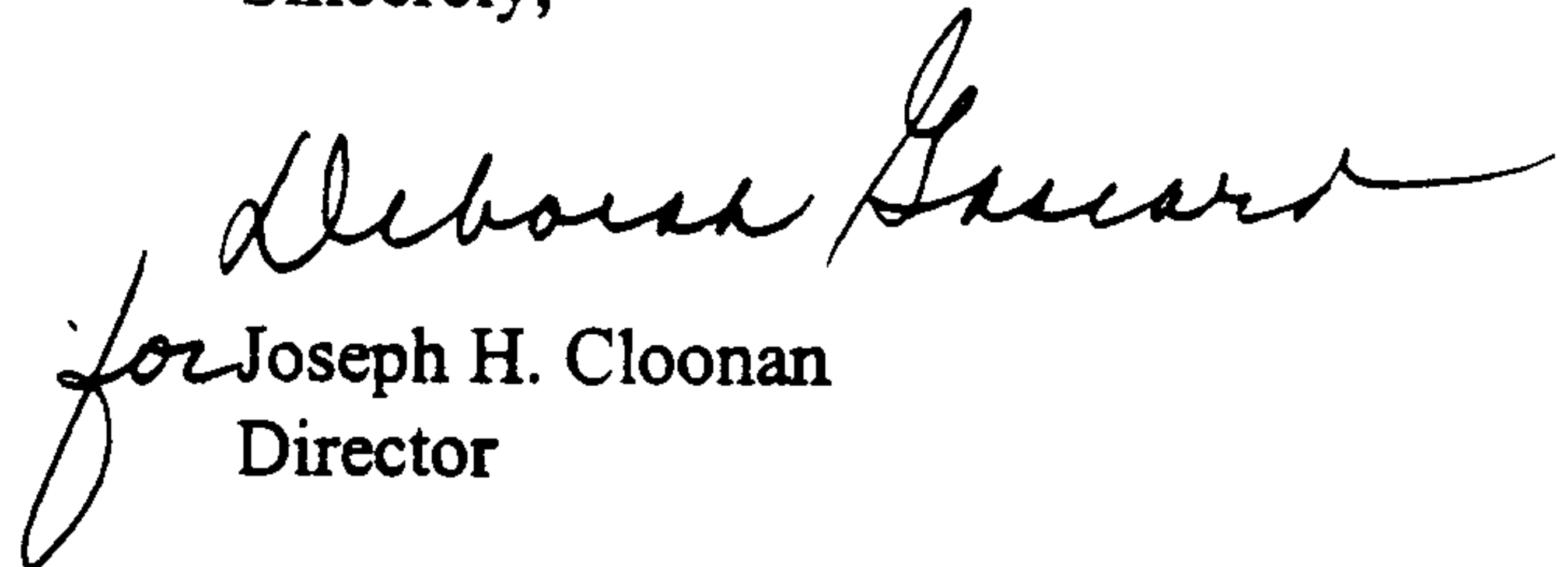
Ms. Lynda L. Wall

The law itself does not require individuals to file a Form 1040. However, Section 6001 of the Code states that every person liable for a tax imposed by the Code shall make returns and comply with such rules and regulations as the Secretary of Treasury may from time to time prescribe. Section 1.6012(a)(6) of the Income Tax Regulations states that Form 1040 is prescribed for general use in making the return required under Section 6012 of the Code.

The government expects voluntary compliance with the federal tax law. This means that we expect taxpayers to comply with the law without being compelled to do so by action of a Government agent; it does not mean that the taxpayer is free to disregard the law. If an individual is required by law to file a return or pay tax, it is mandatory that he or she do so. Failure to do so could cause the individual to be subject to civil and criminal penalties, including fines and imprisonment. See, for example, Schiff v. Commissioner, T.C.M. 1984-223, aff'd, 751 F.2d 116 (2nd Cir. 1984).

We hope this information is helpful to you.

Sincerely,


for Joseph H. Cloonan
Director

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