

* SUMMONS *

Where are your books and records?!



**The snow cuts her face and the wind's breath is icy but the heart of the IRS is even colder.
Don't come back without your books and records!**

What constitutes a IRS Summons?

What books and Records can they ask for?

What procedures can you take to protect yourself?

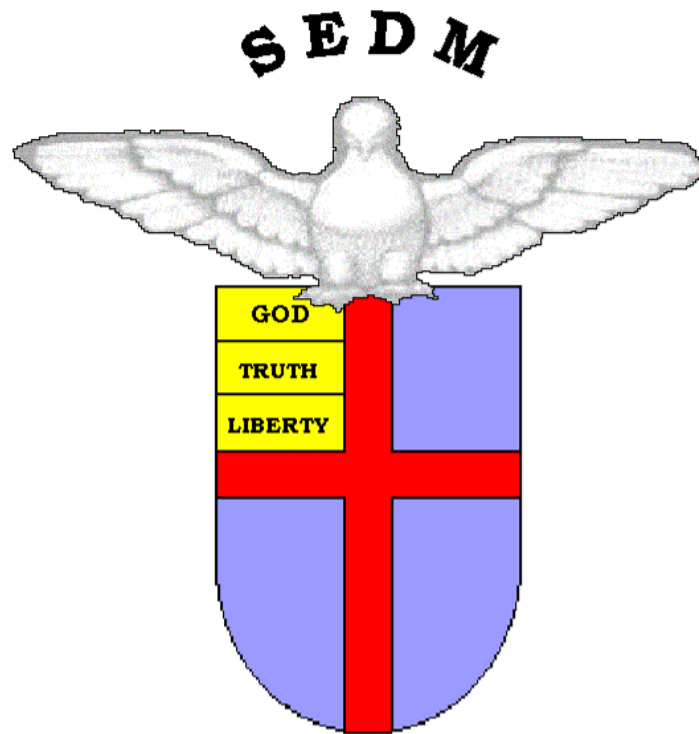
Do you really have to produce your books and records?

Volume 8, August 2002

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SUMMERSONS AUGUST 2022

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Introduction to the Summons Process

- A. This “VIP Dispatch” dealing with the IRS summons procedure is only an introduction to this complex issue.
1. We could turn out a number of “VIP Dispatches” dealing with Summons as there are a number of IRS manuals and volumes of books with thousands of court cases pertaining to this area of study.
- B. Most people have to deal with the 2039 Summons, which can be mailed to them or served to them.
1. They also use a 7210 Summons and a 6637 CG Summons.
 - a. In this issue we will not be getting into either one of these summons, as there is just not enough room to cover them.
 2. Just because something is not covered in the “VIP Dispatch” does not mean that we are not aware of it.
 3. Your input is always important to us. The information you find and send to us not only can help you but many others.
- C. In dealing with the IRS Summons issue you need to know what your options are and how to counter their actions.
1. In this brief intro we will discuss some of these procedures and teach you about some of the bear trap techniques they use to manipulate you and your records.
 2. Trying to warn people about what is getting ready to happen to them is not always appreciated.
 - a. We have a friend who we tired to warn about doing certain procedures and filing certain paperwork who refused to listen to us.
 - b. He told us that this was a free country and he could associate with whom he wished and does as he pleased.
 - c. We said “so be it”. Do as you wish. We hold no one back from doing what they choose or want to do.
 - d. Now he is doing a four-year sentence. He has told several people he now wants out.

- e. Again he went to jail for doing something that was never designed to work in the first place.
 - f. Some people you can help. Some you cannot help.
 - g. We don't want to argue with anyone. You show us your facts and we will show you ours.
- D. Once again we suggest you study the FOIA section if you have the cloud of an IRS summons hanging over you.
- E. One of the most effective items that you can take into any IRS hearing is of course your decoded file. When we decode your file the ledger sheet as we teach in our level IRS level II video tape 2, will be attached to it.
- F. If you attend a hearing you will first want to establish who the person is that is sitting across the table and whether they have the proper security clearance to even look at your records if you have any.
- 1. Next you might want to find out what specific items they want under 4101 of the code if it is dealing with a 2039 summons.
- G. We hope that the following 100 plus pages will give you not only an overview of the IRS Summons process but a starting point and an effective plan to deal with it.

Summons Enforcement

- A. The following five pages comes from the April 1998 United States Attorney's Bulletin.
- B. You should read this report more then once as it contains a lot of useful information.
- C. We are going to go through just a few of the high points in this report. We will break down some of those sections.
- D. We are going to start with the very first paragraph. Look at what they admit to.
 - 1. They rely on your good faith and integrity to completely and honestly disclose to them all your tax liabilities.
 - a. If they expect all this good faith, integrity and honesty on your part then why shouldn't you expect the same from them?
 - b. Why do they strive so hard to keep certain manuals, handbooks, publications and other such items hidden from the general public?
 - c. Why do they admit that they have certain manuals, that they used locked in CID safes? Why do they refuse to release this information to us?
 - d. Why do they refuse to send us the information we ask for in a FOIA requests?
 - e. Why do they refuse to produce documents subpoenaed in court? Why do U.S. Attorney's use the Judges to make sure they do not have to reveal theses items?
 - f. Why do their figures very seldom add up?
 - g. Why do they not even follow the minimum government accounting standards?
 - h. Why do they allow someone with maybe a GED to audit your account?
 - i. Why do they keep so many sets of books for themselves?
 - j. Why do they spend so much time and effort going after honest people who have spent years studying trusts and helping people set up trust when allowing

white-collar trust executives at banks and big law firms who rip off their clients for millions go free? Why do they never bother them?

- k. Why do they refuse to follow the United States Statutes at Large, the Code Federal Regulations, and USC Sections?
 - l. Why do they declare particular CFR immaterial when it suites their purpose?
 - m. Why do they look us in the eye and outright lie to us and then expect us to believe them?
 - n. Why do they refuse to provide us their real names?
 - o. If they expect you to be honest with them then why do they refuse to take a simple oath from a court reporter to “tell the truth?”
 - p. Why do they put incorrect items into your files and when caught red-handed refuse to correct your file?
 - q. Why is it when they do something wrong it is called harmless error but when you do it, it is called a felony?
 - r. Why is it that the first and last IRS historian “Shelley Davis” who wrote the book “Unbridled Power” finished putting together a history of the IRS was fired and her years of work and effort was destroyed by the IRS?
 - s. Why are they allowed to get on the witness stand and commit out right perjury at will?
 - t. Why is it that they seldom can produce an affidavit of probable cause when they take your case to the Grand Jury or if they do produce one much of it is always blacked out. The judge will always refuse to give you a “In Camera” inspection of that redacted document.
 - u. Why is it that they refuse to follow “Generally Accepted Accounting Principles” (GAAP) which is the CPA’s standard for bookkeeping entries?
Note: GAAP is the investigation test an auditor performs to make sure financial statements are materially correct.
- E. We could go on and on but you should by now you have an understanding of what they expect from you and what we should in return expect from them.

- F. Drop down to the first arrow on the same page where it says that the IRS seeks additional information from the taxpayer or relevant third party to determine:
1. Accuracy of the tax return....
 2. Whether a return should have been filed and to make a substitute for return where none has been filed...
 - a. Lets look into this SFR process. Many of us have been victimized by this.
 - b. In order for the IRS to do a SFR they are to fill out both sides, insert all figures, and sign the return then stamp it assigning a Document Locator Number to it.
 - c. Now how many of you have had a SFR sent to you that meets those qualifications?
 - d. Out of the hundreds of SFR's that have crossed our desk we have yet to see one properly filled out.
 - e. Now, why is it that they do not fill out a SFR correctly?
 - f. Could it be they do not have any authority to do a SFR for an IMF?
 - g. Could it be that they can only do a SFR for someone who works for them who does not fill out a return for moneys he or she collected?
 - h. Could it be that they can only do a SFR for someone who has agreed to be a collector of taxes for them such as someone who has signed and filed an IRS form 637?
 - i. Could it be that they could do a SFR for many other types of returns but not for the Form 1040?
 - j. Could it be that they could do a SFR for a territorial citizen or an alien working on a green card or how about a non-resident alien?
 3. If a taxpayer has committed an offense...
 4. They look for assets to pursue to collect properly assessed taxes.
 - a. Reread our May 2002, Dispatch on Assessment. Decide for yourself if the IRS can ever have a proper Assessment on you.

G. Go to the second arrow concerning a administrative summons.

1. There is actually no requirement to produce or turn over anything to them at an administrative summons meeting.
2. It goes on to tell us that a court reporter will be present.
 - a. We have never seen the IRS bring their own court reporter to a meeting!
 - b. If you walk in with your own court reporter they will very often go nuts and not allow the court reporter to even come into the room for the hearing.

H. At the third arrow they admit to two problems.

1. Using post-enforcement remedies when a summoned party refuses to comply with the summons.
 - a. This is what we were explaining about the administrative summons.
2. Making an adequate record for appeal when the summoned party refuses to comply with the summons by asserting his or her Fifth Amendment privilege against self-incrimination.
 - a. There is a very specific way to do this procedure so do not mess it up if you choose to go this route.

Summons Enforcement: Some Special Problems

Charles E. Brookhart, Senior Trial Attorney, Tax Division, Appellate Section

Rachel D. Cramer, Senior Trial Attorney, Tax Division, Central Civil Trial Section

The United States' system of taxation relies on the good faith and integrity of taxpayers to completely and honestly disclose to the Internal Revenue Service (IRS) all information relevant to their tax liabilities. In almost all circumstances, taxpayers have more information about their financial situation and tax liabilities than does the IRS. Thus, in order to effectively conduct investigations of tax liabilities, it is necessary for the IRS to obtain information from taxpayers or third parties in possession of relevant information. Normally, the IRS seeks additional information from the taxpayer or relevant third party to determine: (1) the accuracy of a tax return or information return that has been filed; (2) whether a return should have been filed and, where necessary, to make a substitute for return where none has been filed; (3) whether a taxpayer has committed an offense connected with the administration of the Internal Revenue laws; and (4) whether there are assets the IRS can pursue to collect properly assessed taxes. In most cases, the IRS is able to obtain the information it needs by asking for it informally.

If a taxpayer or relevant third party refuses to produce information informally, the IRS's only means of compelling the production of the information (short of referring the case for a grand jury investigation) is the service and subsequent enforcement of an administrative summons. Generally, an administrative summons requires the taxpayer or third-party to appear at the time and place specified on the summons (sometimes referred to as the return date) to give testimony and produce documents. If the principal object of the summons is testimony, a court reporter will be present to transcribe the taxpayer's or third party's testimony.

This article provides an overview of summons enforcement procedures and specifically addresses two problems that frequently arise in summons enforcement cases, particularly those involving illegal tax protesters: (1) using post-enforcement remedies when a summoned party refuses to comply with the summons and (2) making an adequate record for appeal when the

summoned party refuses to comply with the summons by asserting his or her Fifth Amendment privilege against self-incrimination. A complete discussion of summons enforcement law, including extensive case citations, can be found in *A Primer on IRS Summons Enforcement* (the *Primer*) by Charles E. Brookhart.

Summons Enforcement Generally

Because IRS summonses are not self-enforcing, the IRS must refer the summons to the Department of Justice (DOJ) to obtain an order of enforcement when a summoned party either refuses to appear or appears but refuses to produce the summoned information. The United States Attorneys' offices (USAOs) and the Tax Division share the responsibility of bringing summons enforcement actions and defending petitions to quash summonses. The IRS generally refers requests for enforcement of routine IRS civil examination and collection summonses directly to the USAOs. Similarly, petitions to quash summonses served on third party record keepers under 26 U.S.C. § 7609 are often referred directly to the USAOs.

The Tax Division also litigates summons enforcement cases involving summonses issued to or involving the tax liabilities of tax-exempt organizations and churches or members of the clergy (except third party record keeper summonses for bank records); summonses to attorneys for any purpose; summonses that seek accountants' "audit work papers" or "tax accrual work papers;" designated summonses issued under 26 U.S.C. § 6503(j); summonses for tax return preparation software; summonses for information necessary to complete Form 8300, "Reports of Cash Payments Over \$10,000 Received in a Trade of Business;" and summonses for records outside the United States.

Summons Enforcement Generally

- A. United States Attorneys' Bulletin page 012 second column.

- B. IRS summons are not self-enforcing..... this is why when you go to tone of those meetings you can take control of and run this meeting.
 - 1. Just make sure you remain calm and collected. Don't raise your voice. Remember you are in control. Ask the right questions. You are there to defend yourself.

 - 2. "The IRS must refer summons to Department of Justice for enforcement when someone refuses to appear or refuses to produce requested information."
 - a. If the IRS cannot enforce a summons how can they enforce a Notice of Levy or a Notice of Lien? Think about it.

- C. Petitions to quash summons: This is another area that you can tie up US Department of Justice for hours if you know the proper procedures.
 - 1. We can assist you with your motion to quash the summons. But don't get your hopes up. If the Department of Justice puts their response on a piece of used toilet paper, 99% of the Federal Judges will honor it. In many such miscarriages of justice by the courts your only remedy lies in filing an appeal with Appellate court to overturn it. This is costly and time consuming.

 - 2. Knowing this then why should you waste your time trying to quash a summons?
 - a. First, the stance you take in this matter will put them on notice if you are going to be an easy hit or a time consuming pain in the butt.

 - b. The stance you take along with your paperwork will put them on notice of what you know.

 - c. If they have to fight this hard to just get a little information from you, many times they can drop you and look for a simpler catch.

 - 3. Petitions to quash summons served on third party record keepers under 26 USC section 7609, (Exhibit A) are often returned directly to the USAO (United States Attorneys Office).

- D. Second paragraph at the arrow "designated" summonses issued under 26 U.S.C. section 6503(;) (Exhibit B).

1. Summonses for tax return preparation software; Summons for information necessary to complete form 8300 with instructions (Exhibit C) outside of the United States.
 - a. Now this is the same form 8300 that many of those doing the redemption process will tell you to fill out. BEWARE OF THOSE PEOPLE!!!! See # 215 on our list about how U.S. Attorney's are trained to take down those doing this "Redemption Scheme."
- E. We suggest you read the next two pages several times to get a feel for what it takes to quash a summons.
- F. If you need help call us concerning this procedure.

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In order to initiate a summons enforcement proceeding in district court, the United States generally files a petition to enforce, supported by a sworn declaration of the IRS employee who issued the summons. At a minimum, the declaration must state that the IRS has complied with the requirements for enforcement established in *United States v. Powell*, 379 U.S. 48, 57-58 (1964). The declaration must establish that (1) the summons is issued for a proper purpose (which generally means that the information is being sought as part of a legitimate IRS investigation), (2) the material sought is relevant to that purpose, (3) the information sought is not already within the Commissioner's possession, and (4) the administrative steps required by the Internal Revenue Code (I.R.C.) have been followed. Additionally, because a summons cannot be enforced if the matter has been referred to DOJ for criminal prosecution, the declaration should also state that no criminal referral has been made with respect to the individual whose tax liability is being investigated. The declaration serves as the Government's *prima facie* showing that the summons is enforceable. The Government's burden is a slight one because an enforcement action is a summary proceeding, which is brought only at the investigative stage of an action against a taxpayer.

Along with the petition, the Government generally files a draft order to show cause and proposes a date by which the summoned party must make a written response raising any defenses he or she may have for failing to comply with the summons. The draft order should also propose a hearing date for the court's consideration of any defenses raised by the summoned party. Usually the order to show cause directs that a copy of the order, along with the Government's petition and supporting declarations, be hand-served on the summoned party within a set number of days. It is often easiest to have the revenue agent or revenue officer, whose declaration supports the petition, personally serve the respondent.

In addition to affirmative summons enforcement litigation, the Government also defends against petitions to quash filed by "third party record keepers" relating

to the service of IRS summonses. Summonses issued to banks or other third party record keepers concerning the tax liability of another are governed by Section 7609. Generally, if a summons served on a third-party record keeper seeks records pertaining to a person other than the record keeper, then that other person (a "noticee") must be served a timely notice of the summons.** Upon his or her receipt of proper notice, the noticee acquires certain procedural rights, including the right to file a petition in the district court to quash the summons. See Section 7609(b)(2). Under Section 7609(b)(2)(A), the petition to quash must be filed within 20 days of the date notice is given. This filing provision is strictly construed and the jurisdiction of the district court to entertain a petition to quash ends when the 20-day period has run out. *Faber v. United States*, 921 F.2d 1118, 1119 (10th Cir. 1990). The timely filing of a petition to quash prevents the Commissioner from examining any summoned records during the pendency of the proceedings. Section 7609(b)(2).

While a noticee's petition to quash is procedurally different from a Government enforcement action, the respective burdens of proof on the parties are essentially the same in both actions. Therefore, when responding to a petition to quash a summons, the Government must submit a declaration demonstrating that the *Powell* requirements have been met. Indeed, in most cases instituted by taxpayers/noticees under Section 7609, the Government will counterclaim for enforcement of the summons pursuant to Section 7609(b)(2)(A).

and loan or similar association under Federal or State law, any bank (as defined in Section 581), or any credit union (within the meaning of Section 501(c)(14)(A)); (B) any consumer reporting agency (as defined under Section 603(d) of the Fair Credit Reporting Act—15 U.S.C. 1681a(f)); (C) any person extending credit through the use of credit cards or similar devices; (D) any broker (as defined in Section 3(a)(4) of the Securities Exchange Act of 1934—15 U.S.C. 78c(a)(4)); (E) any attorney; (F) any accountant; (G) any barter exchange (as defined in Section 6045(c)(3)); and (H) any regulated investment company (as defined in Section 851) and any agent of such regulated investment company when acting as an agent thereof.

*As defined in Section 7609(a)(3), the term "third party record keepers" means: (A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings

**Timely notice is "notice given within three days of the date the summons is served and no later than the 23rd day before the return date specified on the summons." 26 U.S.C. § 7609(a)(1).

In order to resist enforcement of the summons, the respondent (or in the case of petitions to quash third party record keeper summonses, the noticee) must either rebut some part of the Government's *prima facie* case, demonstrate that enforcement of the summons would be an abuse of the court's process, or show that the summoned material is subject to a valid claim of privilege. Because summons enforcement proceedings are summary in nature, the respondent must make a substantial showing that there is a reason to question the enforceability of the summons before being entitled to an evidentiary hearing. *Hintze v. IRS*, 879 F.2d 121, 126 (4th Cir. 1989). The taxpayer or third party challenging the summons bears the "heavy" burden of rebutting the Government's *prima facie* showing for enforcement of a summons. *United States v. Jose*, 131 F.3d 1325, 1328 (9th Cir. 1997) (*en banc*). The contesting party must allege specific facts and introduce evidence to support the allegations that the summons is not enforceable. Mere allegations of wrongful conduct are insufficient. *Jose*, 131 F.3d at 1328.

Although the hearing set by the order to show cause is usually confined to legal argument, it is advisable to have the revenue agent or revenue officer prepared to testify in support of the declaration if necessary. Also, even though the court does not generally order the Government to respond in writing to the respondent's opposition to enforcement, it is often a good idea to file a brief in support of enforcement prior to the hearing. The *Primer* is a good resource when drafting these briefs.

The court's role in a summons enforcement proceeding is limited to determining whether the particular summons is a legitimate exercise of the IRS's investigation authority. *Jose*, 131 F.3d at 1329. The court is not empowered to second-guess the wisdom of the IRS's investigative decisions. In *Powell*, the Supreme Court specifically held that a district court should not inquire into the strength of the Commissioner's reasons for believing that the

summoned material will contribute to a redetermination of tax liability. 379 U.S. at 56. Indeed, the Supreme Court held that a summons can be enforced even after the normal statute of limitations for assessment of taxes has expired because there is no statute of limitations on fraud. 26 U.S.C. § 6501(c). Moreover, the Government need not make any probable cause showing that fraud, or any other deviation from the I.R.C., is suspected in order to obtain enforcement of a summons. *Powell*, 379 U.S. at 56.

If the court orders an evidentiary hearing, the Government must, at a minimum, make the issuing revenue agent or revenue officer available for cross-examination. Discovery is not usually permitted in summons enforcement cases, although this is a matter left to the judge's discretion. *United States v. McCoy*, 954 F.2d 1000, 1004 (5th Cir. 1992). Even those courts that have permitted limited discovery have generally only done so after a hearing where the issuing revenue agent or revenue officer has been subject to cross-examination, and then only if such cross-examination shows that there is a substantial reason to question the enforceability of the summons. *United States v. Kis*, 658 F.2d 526 (7th Cir. 1981), *cert. denied*, 455 U.S. 1018 (1982).

Very often summons enforcement proceedings are referred to magistrate judges. It is important to remember that a magistrate judge cannot enter a binding order enforcing a summons. A magistrate judge can only issue a report and recommendation to a district judge who, in turn, can issue a final and appealable order. *United States v. First National Bank of Atlanta*, 628 F.2d 871, 873 (5th Cir. 1980); *United States v. Jones*, 581 F.2d 816 (10th Cir. 1978). The report and recommendation of the magistrate judge is subject to exceptions by either party. Fed. R. Civ. P. 72 (b). The magistrate judge's recommendation is then subject to *de novo* review by the district judge who enters the final and appealable order granting or denying enforcement. *United States v. Mueller*, 930 F.2d 10 (8th Cir. 1991). Unless the respondent obtains a stay of the enforcement order pending appeal, the Government can begin contempt proceedings while the appeal is pending. *United States v. Lawn Builders of New England, Inc.*, 856 F.2d 388, 394-395 (1st Cir. 1988).

TITLE 26 > Subtitle F > CHAPTER 78 > Subchapter A > Sec. 7609.

Sec. 7609. - Special procedures for third-party summonses

(a) Notice

(1) In general

If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.

(2) Sufficiency of notice

Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

Exhibit A of 7

(3) Nature of summons

Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

(b) Right to intervene; right to proceeding to quash**(1) Intervention**

Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) Proceeding to quash**(A) In general**

Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

(B) Requirement of notice to person summoned and to Secretary

If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

(C) Intervention; etc.

Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).

(c) Summons to which section applies

Exhibit A 2 of 7

(1) In general

Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

(2) Exceptions

This section shall not apply to any summons -

(A)

served on the person with respect to whose liability the summons is issued, or any officer or employee of such person;

(B)

issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept;

(C)

issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A);

(D)

issued in aid of the collection of -

(i)

an assessment made or judgment rendered against the person with respect to whose liability the summons is issued; or

(ii)

the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i);

(E)**(i)**

issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws; and

(ii)

Exhibit A 3 of 7

served on any person who is not a third-party recordkeeper (as defined in section 7603(b)); or

(F)

described in subsection (f) or (g).

(3) Records

For purposes of this section, the term "records" includes books, papers, and other data.

(d) Restriction on examination of records

No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made -

(1)

before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

(2)

where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash.

(e) Suspension of statute of limitations

(1) Subsection (b) action

If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

(2) Suspension after 6 months of service of summons

In the absence of the resolution of the summoned party's response to the summons, the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued (other than a

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person taking action as provided in subsection (b)) shall be suspended for the period -

(A)

beginning on the date which is 6 months after the service of such summons, and

(B)

ending with the final resolution of such response.

(f) Additional requirement in the case of a John Doe summons

Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that -

(1)

the summons relates to the investigation of a particular person or ascertainable group or class of persons,

(2)

there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

(3)

the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

(g) Special exception for certain summonses

A summons is described in this subsection if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(h) Jurisdiction of district court; etc.

(1) Jurisdiction

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The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

(2) Special rule for proceedings under subsections (f) and (g)

The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

(i) Duty of summoned party

(1) Recordkeeper must assemble records and be prepared to produce records

On receipt of a summons to which this section applies for the production of records, the summoned party shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

(2) Secretary may give summoned party certificate

The Secretary may issue a certificate to the summoned party that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

(3) Protection for summoned party who discloses

Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.

(4) Notice of suspension of statute of limitations in the case of a John Doe summons

In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the summoned party shall provide notice of such suspension to any person described in subsection (f).

(j) Use of summons not required

Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602₂₀

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Parallel authorities for 26 USC 7609 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- [27 CFR part 70](#)

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TITLE 26 > Subtitle F > CHAPTER 66 > Subchapter A > Sec. 6503.

Sec. 6503. - Suspension of running of period of limitation

(a) Issuance of statutory notice of deficiency

(1) General rule

The running of the period of limitations provided in section 6501 or 6502 (or section 6229, but only with respect to a deficiency described in paragraph (2)(A) or (3) of section 6230(a)). ^[1] on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, gift and certain excise taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) Corporation joining in consolidated income tax return

If a notice under section 6212(a) in respect of a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

(b) Assets of taxpayer in control or custody of court

The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

(c) Taxpayer outside United States

The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

(d) Extensions of time for payment of estate tax

The running of the period of limitation for collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161(a)(2) or (b)(2) or under the provisions of section 6163 or 6166.

(e) Extensions of time for payment of tax attributable to recoveries of foreign expropriation losses

The running of the period of limitations for collection of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of section 6167(f)) shall be suspended for the period of any extension of time for payment under subsection (a) or (b) of section 6167.

(f) Wrongful seizure of or lien on property of third party**(1) Wrongful seizure**

The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

(2) Wrongful lien

In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of -

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(A)

the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released; or

(B)

the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.

(g) Suspension pending correction

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments or the collection by levy or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Secretary has extended the time for making correction under section 4963(e).

(h) Cases under title 11 of the United States Code

The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or collection shall, in a case under title 11 of the United States Code, be suspended for the period during which the Secretary is prohibited by reason of such case from making the assessment or from collecting and -

(1)

for assessment, 60 days thereafter, and

(2)

for collection, 6 months thereafter.

(i) Extension of time for payment of undistributed PFIC earnings tax liability

The running of any period of limitations for collection of any amount of undistributed PFIC earnings tax liability (as defined in section 1294(b)) shall be suspended for the period of any extension of time under section 1294 for payment of such amount.

(j) Extension in case of certain summonses

Exhibit B 387

(1) In general

If any designated summons is issued by the Secretary to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended -

(A)

during any judicial enforcement period -

(i)

with respect to such summons, or

(ii)

with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

(B)

if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

(2) Designated summons

For purposes of this subsection -

(A) In general

The term "designated summons" means any summons issued for purposes of determining the amount of any tax imposed by this title if -

(i)

the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in

Exhibit B 4 of 7

which the examination of the corporation is being conducted,

(ii)

such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

(iii)

such summons clearly states that it is a designated summons for purposes of this subsection.

(B) Limitation

A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

(3) Judicial enforcement period

For purposes of this subsection, the term "judicial enforcement period" means, with respect to any summons, the period -

(A)

which begins on the day on which a court proceeding with respect to such summons is brought, and

(B)

which ends on the day on which there is a final resolution as to the summoned person's response to such summons.

(k)

Cross references

For suspension in case of -

(1)

Deficiency dividends of a personal holding company, see section 547(f).

(2)

Receiverships, see subchapter B of chapter 70.

(3)

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Claims against transferees and fiduciaries, see chapter 71.

(4)

Income tax return preparers, see section 6694 (c)(3).

(5)

Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h)



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Parallel authorities for 26 USC 6503 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives [parallel table of authorities](#) for a complete listing.]

- [27 CFR part 70](#)

Report of Cash Payments Over \$10,000 Received in a Trade or Business

▶ See instructions for definition of cash.
 ▶ Use this form for transactions occurring after December 31, 2001. Do not use prior versions after this date.
 For Privacy Act and Paperwork Reduction Act Notice, see page 4.

1 Check appropriate box(es) if: a Amends prior report; b Suspicious transaction.

Part I Identity of Individual From Whom the Cash Was Received

2 If more than one individual is involved, check here and see instructions

3 Last name 4 First name 5 M.I. 6 Taxpayer identification number

7 Address (number, street, and apt. or suite no.) 8 Date of birth (see instructions) M M D D Y Y Y Y

9 City 10 State 11 ZIP code 12 Country (if not U.S.) 13 Occupation, profession, or business

14 Document used to verify identity: a Describe identification ▶ b Issued by c Number

Part II Person on Whose Behalf This Transaction Was Conducted

15 If this transaction was conducted on behalf of more than one person, check here and see instructions

16 Individual's last name or Organization's name 17 First name 18 M.I. 19 Taxpayer identification number

20 Doing business as (DBA) name (see instructions) Employer identification number

21 Address (number, street, and apt. or suite no.) 22 Occupation, profession, or business

23 City 24 State 25 ZIP code 26 Country (if not U.S.)

27 Alien identification: a Describe identification ▶ b Issued by c Number

Part III Description of Transaction and Method of Payment

28 Date cash received M M D D Y Y Y Y 29 Total cash received \$.00 30 If cash was received in more than one payment, check here 31 Total price if different from item 29 \$.00

32 Amount of cash received (in U.S. dollar equivalent) (must equal item 29) (see instructions):
 a U.S. currency \$.00 (Amount in \$100 bills or higher \$.00)
 b Foreign currency \$.00 (Country ▶)
 c Cashier's check(s) \$.00 } Issuer's name(s) and serial number(s) of the monetary instrument(s) ▶
 d Money order(s) \$.00 }
 e Bank draft(s) \$.00 }
 f Traveler's check(s) \$.00 }

33 Type of transaction f Debt obligations paid 34 Specific description of property or service shown in 33.
 a Personal property purchased g Exchange of cash (Give serial or registration number, address, docket
 b Real property purchased h Escrow or trust funds number, etc.) ▶
 c Personal services provided i Bail received by court clerks
 d Business services provided j Other (specify) ▶
 e Intangible property purchased

Part IV Business That Received Cash

35 Name of business that received cash 36 Employer identification number

37 Address (number, street, and apt. or suite no.) Social security number

38 City 39 State 40 ZIP code 41 Nature of your business

42 Under penalties of perjury, I declare that to the best of my knowledge the information I have furnished above is true, correct, and complete.

Signature ▶ Authorized official Title ▶

43 Date of signature M M D D Y Y Y Y 44 Type or print name of contact person 45 Contact telephone number ()

Exhibit c 1 of 4

Multiple Parties

(Complete applicable parts below if box 2 or 15 on page 1 is checked)

Part I Continued—Complete if box 2 on page 1 is checked

Form section for Part I, entry 1. Includes fields for last name, first name, M.I., taxpayer ID, address, date of birth, city, state, ZIP code, country, occupation, and document used to verify identity.

Form section for Part I, entry 2. Includes fields for last name, first name, M.I., taxpayer ID, address, date of birth, city, state, ZIP code, country, occupation, and document used to verify identity.

Part II Continued—Complete if box 15 on page 1 is checked

Form section for Part II, entry 1. Includes fields for individual's last name, first name, M.I., taxpayer ID, DBA name, employer ID, address, city, state, ZIP code, country, and alien identification.

Form section for Part II, entry 2. Includes fields for individual's last name, first name, M.I., taxpayer ID, DBA name, employer ID, address, city, state, ZIP code, country, and alien identification.

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Section references are to the Internal Revenue Code unless otherwise noted.

Changes To Note

- Section 6050I (26 United States Code (U.S.C.) 6050I) and 31 U.S.C. 5331 require that certain information be reported to the IRS and the Financial Crimes Enforcement Network (FinCEN). This information must be reported on **IRS/FinCEN Form 8300**.
- Item 33 box i is to be checked **only** by clerks of the court; box d is to be checked by bail bondsmen. See the instructions on page 4.
- For purposes of section 6050I and 31 U.S.C. 5331, the word "cash" and "currency" have the same meaning. See **Cash** under **Definitions** below.

General Instructions

Who must file. Each person engaged in a trade or business who, in the course of that trade or business, receives more than \$10,000 in cash in one transaction or in two or more related transactions, must file Form 8300. Any transactions conducted between a payer (or its agent) and the recipient in a 24-hour period are related transactions. Transactions are considered related even if they occur over a period of more than 24 hours if the recipient knows, or has reason to know, that each transaction is one of a series of connected transactions.

Keep a copy of each Form 8300 for 5 years from the date you file it.

Clerks of Federal or State courts must file Form 8300 if more than \$10,000 in cash is received as bail for an individual(s) charged with certain criminal offenses. For these purposes, a clerk includes the clerk's office or any other office, department, division, branch, or unit of the court that is authorized to receive bail. If a person receives bail on behalf of a clerk, the clerk is treated as receiving the bail. See the instructions for **Item 33** on page 4.

If multiple payments are made in cash to satisfy bail and the initial payment does not exceed \$10,000, the initial payment and subsequent payments must be aggregated and the information return must be filed by the 15th day after receipt of the payment that causes the aggregate amount to exceed \$10,000 in cash. In such cases, the reporting requirement can be satisfied either by sending a single written statement with an aggregate amount listed or by furnishing a copy of each Form 8300 relating to that payer. Payments made to satisfy separate bail requirements are not required to be aggregated. See Treasury Regulations section 1.6050I-2.

Casinos must file Form 8300 for nongaming activities (restaurants, shops, etc.).

Voluntary use of Form 8300. Form 8300 may be filed voluntarily for any suspicious transaction (see **Definitions**) for use by FinCEN and the IRS, even if the total amount does not exceed \$10,000.

Exceptions. Cash is not required to be reported if it is received:

- By a financial institution required to file **Form 4789**, Currency Transaction Report.
- By a casino required to file (or exempt from filing) **Form 8362**, Currency Transaction Report by Casinos, if the cash is received as part of its gaming business.
- By an agent who receives the cash from a principal, if the agent uses all of the cash within 15 days in a second transaction that is reportable on Form 8300 or on Form 4789, and discloses all the information necessary to complete Part II of Form 8300 or Form 4789 to the recipient of the cash in the second transaction.

- In a transaction occurring entirely outside the United States. See **Pub. 1544**, Reporting Cash Payments Over \$10,000 (Received in a Trade or Business), regarding transactions occurring in Puerto Rico, the Virgin Islands, and territories and possessions of the United States.
- In a transaction that is not in the course of a person's trade or business.

When to file. File Form 8300 by the 15th day after the date the cash was received. If that date falls on a Saturday, Sunday, or legal holiday, file the form on the next business day.

Where to file. File the form with the Internal Revenue Service, Detroit Computing Center, P.O. Box 32621, Detroit, MI 48232.

Statement to be provided. You must give a written statement to each person named on a required Form 8300 on or before January 31 of the year following the calendar year in which the cash is received. The statement must show the name, telephone number, and address of the information contact for the business, the aggregate amount of reportable cash received, and that the information was furnished to the IRS. Keep a copy of the statement for your records.

Multiple payments. If you receive more than one cash payment for a single transaction or for related transactions, you must report the multiple payments any time you receive a total amount that exceeds \$10,000 within any 12-month period. Submit the report within 15 days of the date you receive the payment that causes the total amount to exceed \$10,000. If more than one report is required within 15 days, you may file a combined report. File the combined report no later than the date the earliest report, if filed separately, would have to be filed.

Taxpayer identification number (TIN). You must furnish the correct TIN of the person or persons from whom you receive the cash and, if applicable, the person or persons on whose behalf the transaction is being conducted. **You may be subject to penalties for an incorrect or missing TIN.**

The TIN for an individual (including a sole proprietorship) is the individual's social security number (SSN). For certain resident aliens who are not eligible to get an SSN and nonresident aliens who are required to file tax returns, it is an IRS Individual Taxpayer Identification Number (ITIN). For other persons, including corporations, partnerships, and estates, it is the employer identification number (EIN).

If you have requested but are not able to get a TIN for one or more of the parties to a transaction within 15 days following the transaction, file the report and attach a statement explaining why the TIN is not included.

Exception: *You are not required to provide the TIN of a person who is a nonresident alien individual or a foreign organization if that person does not have income effectively connected with the conduct of a U.S. trade or business and does not have an office or place of business, or fiscal or paying agent, in the United States. See Pub. 1544 for more information.*

Penalties. You may be subject to penalties if you fail to file a correct and complete Form 8300 on time and you cannot show that the failure was due to reasonable cause. You may also be subject to penalties if you fail to furnish timely a correct and complete statement to each person named in a required report. A minimum penalty of \$25,000 may be imposed if the failure is due to an intentional or willful disregard of the cash reporting requirements.

Penalties may also be imposed for causing, or attempting to cause, a trade or business to fail to file a required report; for causing, or

attempting to cause, a trade or business to file a required report containing a material omission or misstatement of fact; or for structuring, or attempting to structure, transactions to avoid the reporting requirements. These violations may also be subject to criminal prosecution which, upon conviction, may result in imprisonment of up to 5 years or fines of up to \$250,000 for individuals and \$500,000 for corporations or both.

Definitions

Cash. The term "cash" means the following:

- U.S. and foreign coin and currency received in any transaction.
- A cashier's check, money order, bank draft, or traveler's check having a face amount of \$10,000 or less that is received in a **designated reporting transaction** (defined below), or that is received in any transaction in which the recipient knows that the instrument is being used in an attempt to avoid the reporting of the transaction under either section 6050I or 31 U.S.C. 5331.

Note: *Cash does not include a check drawn on the payer's own account, such as a personal check, regardless of the amount.*

Designated reporting transaction. A retail sale (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of a consumer durable, a collectible, or a travel or entertainment activity.

Retail sale. Any sale (whether or not the sale is for resale or for any other purpose) made in the course of a trade or business if that trade or business principally consists of making sales to ultimate consumers.

Consumer durable. An item of tangible personal property of a type that, under ordinary usage, can reasonably be expected to remain useful for at least 1 year, and that has a sales price of more than \$10,000.

Collectible. Any work of art, rug, antique, metal, gem, stamp, coin, etc.

Travel or entertainment activity. An item of travel or entertainment that pertains to a single trip or event if the combined sales price of the item and all other items relating to the same trip or event that are sold in the same transaction (or related transactions) exceeds \$10,000.

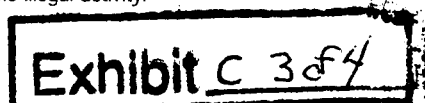
Exceptions. A cashier's check, money order, bank draft, or traveler's check is not considered received in a designated reporting transaction if it constitutes the proceeds of a bank loan or if it is received as a payment on certain promissory notes, installment sales contracts, or down payment plans. See Pub. 1544 for more information.

Person. An individual, corporation, partnership, trust, estate, association, or company.

Recipient. The person receiving the cash. Each branch or other unit of a person's trade or business is considered a separate recipient unless the branch receiving the cash (or a central office linking the branches), knows or has reason to know the identity of payers making cash payments to other branches.

Transaction. Includes the purchase of property or services, the payment of debt, the exchange of a negotiable instrument for cash, and the receipt of cash to be held in escrow or trust. A single transaction may not be broken into multiple transactions to avoid reporting.

Suspicious transaction. A transaction in which it appears that a person is attempting to cause Form 8300 not to be filed, or to file a false or incomplete form. The term also includes any transaction in which there is an indication of possible illegal activity.



Specific Instructions

You must complete all parts. However, you may skip Part II if the individual named in Part I is conducting the transaction on his or her behalf only. For voluntary reporting of suspicious transactions, see Item 1 below.

Item 1. If you are amending a prior report, check box 1a. Complete the appropriate items with the correct or amended information only. Complete all of Part IV. Staple a copy of the original report to the amended report.

To voluntarily report a suspicious transaction (see **Definitions**), check box 1b. You may also telephone your local IRS Criminal Investigation Division or call 1-800-800-2877.

Part I

Item 2. If two or more individuals conducted the transaction you are reporting, check the box and complete Part I for any one of the individuals. Provide the same information for the other individual(s) on the back of the form. If more than three individuals are involved, provide the same information on additional sheets of paper and attach them to this form.

Item 6. Enter the taxpayer identification number (TIN) of the individual named. See **Taxpayer identification number (TIN)** on page 3 for more information.

Item 8. Enter eight numerals for the date of birth of the individual named. For example, if the individual's birth date is July 6, 1960, enter 07 06 1960.

Item 13. Fully describe the nature of the occupation, profession, or business (for example, "plumber," "attorney," or "automobile dealer"). Do not use general or nondescriptive terms such as "businessman" or "self-employed."

Item 14. You must verify the name and address of the named individual(s). Verification must be made by examination of a document normally accepted as a means of identification when cashing checks (for example, a driver's license, passport, alien registration card, or other official document). In item 14a, enter the type of document examined. In item 14b, identify the issuer of the document. In item 14c, enter the document's number. For example, if the individual has a Utah driver's license, enter "driver's license" in item 14a, "Utah" in item 14b, and the number appearing on the license in item 14c.

Part II

Item 15. If the transaction is being conducted on behalf of more than one person (including husband and wife or parent and child), check the box and complete Part II for any one of the persons. Provide the same information for the other person(s) on the back of the form. If more than three persons are involved, provide the same information on additional sheets of paper and attach them to this form.

Items 16 through 19. If the person on whose behalf the transaction is being conducted is an individual, complete items 16, 17, and 18. Enter his or her TIN in item 19. If the individual is a sole proprietor and has an employer identification number (EIN), you must enter both the SSN and EIN in item 19. If the person is an organization, put its name as shown on required tax filings in item 16 and its EIN in item 19.

Item 20. If a sole proprietor or organization named in items 16 through 18 is doing business under a name other than that entered in item 16 (e.g., a "trade" or "doing business as (DBA)" name), enter it here.

Item 27. If the person is not required to furnish a TIN, complete this item. See **Taxpayer Identification Number (TIN)** on page 3. Enter a

description of the type of official document issued to that person in item 27a (for example, "passport"), the country that issued the document in item 27b, and the document's number in item 27c.

Part III

Item 28. Enter the date you received the cash. If you received the cash in more than one payment, enter the date you received the payment that caused the combined amount to exceed \$10,000. See **Multiple payments under General Instructions** for more information.

Item 30. Check this box if the amount shown in item 29 was received in more than one payment (for example, as installment payments or payments on related transactions).

Item 31. Enter the total price of the property, services, amount of cash exchanged, etc. (for example, the total cost of a vehicle purchased, cost of catering service, exchange of currency) if different from the amount shown in item 29.

Item 32. Enter the dollar amount of each form of cash received. Show foreign currency amounts in U.S. dollar equivalent at a fair market rate of exchange available to the public. **The sum of the amounts must equal item 29.** For cashier's check, money order, bank draft, or traveler's check, provide the name of the issuer and the serial number of each instrument. Names of all issuers and all serial numbers involved must be provided. If necessary, provide this information on additional sheets of paper and attach them to this form.

Item 33. Check the appropriate box(es) that describe the transaction. If the transaction is not specified in boxes a-i, check box j and briefly describe the transaction (for example, "car lease," "boat lease," "house lease," or "aircraft rental"). If the transaction relates to the receipt of bail by a court clerk, check box i, "Bail received by court clerks." This box is **only** for use by court clerks. If the transaction relates to cash received by a bail bondsman, check box d, "Business services provided."

Part IV

Item 36. If you are a sole proprietorship, you must enter your SSN. If your business also has an EIN, you must provide the EIN as well. All other business entities must enter an EIN.

Item 41. Fully describe the nature of your business, for example, "attorney" or "jewelry dealer." Do not use general or nondescriptive terms such as "business" or "store."

Item 42. This form must be signed by an individual who has been authorized to do so for the business that received the cash.

Privacy Act and Paperwork Reduction Act Notice. Except as otherwise noted, the information solicited on this form is required by the Internal Revenue Service (IRS) and the Financial Crimes Enforcement Network (FinCEN) in order to carry out the laws and regulations of the United States Department of the Treasury. Trades or businesses, except for clerks of criminal courts, are required to provide the information to the IRS and FinCEN under both section 6050I and 31 U.S.C. 5331. Clerks of criminal courts are required to provide the information to the IRS under section 6050I. Section 6109 and 31 U.S.C. 5331 require that you provide your social security number in order to adequately identify you and process your return and other papers. The principal purpose for collecting the information on this form is to maintain reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or

counterintelligence activities, by directing the Federal Government's attention to unusual or questionable transactions.

While such information is invaluable with regards to the purpose of this form, you are not required to provide information as to whether the reported transaction is deemed suspicious. No penalties or fines will be assessed for failure to provide such information, even if you determine that the reported transaction is indeed suspicious in nature. Failure to provide all other requested information, or the provision of fraudulent information, may result in criminal prosecution and other penalties under Title 26 and Title 31 of the United States Code.

Generally, tax returns and return information are confidential, as stated in section 6103. However, section 6103 allows or requires the IRS to disclose or give the information requested on this form to others as described in the Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the IRS. We may disclose your tax information to Committees of Congress; Federal, state, and local child support agencies; and to other Federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans. We may also disclose this information to Federal agencies that investigate or respond to acts or threats of terrorism or participate in intelligence or counterintelligence activities concerning terrorism.

FinCEN may provide the information collected through this form to those officers and employees of the Department of the Treasury who have a need for the records in the performance of their duties. FinCEN may also refer the records to any other department or agency of the Federal Government upon the request of the head of such department or agency and may also provide the records to appropriate state, local, and foreign criminal law enforcement and regulatory personnel in the performance of their official duties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any law under Title 26 or Title 31.

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is 21 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, you can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send this form to this office. Instead, see **Where To File** on page 3.



Exhibit C 4 of 4

Priest. A sacerdotal minister of a church. A person in the second order of the ministry, as distinguished from bishops and deacons.

Priest-penitent privilege. In evidence, the recognition of the seal of confession which bars testimony as to the contents of a communication from one to his confessor. Nearly all states provide for this privilege by statute.

Prima impressio /práymiy imprèshiyównas/. A case *prima impressio* (of the first impression) is a case of a new kind, to which no established principle of law or precedent directly applies, and which must be decided entirely by reason as distinguished from authority. See **First impression case**.

Prima preces /práymiy priysiyz/. Lat. In the civil law, an imperial prerogative by which the emperor exercised the right of naming to the first prebend that became vacant after his accession, in every church of the empire.

Prima facie /práyma féyshiy(iy)/. Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably, a fact presumed to be true unless disproved by some evidence to the contrary. *State ex rel. Herbert v. Whims*, 68 Ohio App. 39, 38 N.E.2d 596, 599, 22 O.O. 110.

Prima facie case. Such as will prevail until contradicted and overcome by other evidence. *Pacific Telephone & Telegraph Co. v. Wallace*, 158 Or. 210, 75 P.2d 942, 947. A case which has proceeded upon sufficient proof to that stage where it will support finding if evidence to contrary is disregarded. In *re Hoagland's Estate*, 126 Neb. 377, 253 N.W. 416.

A prima facie case consists of sufficient evidence in the type of case to get plaintiff past a motion for directed verdict in a jury case or motion to dismiss in a nonjury case; it is the evidence necessary to require defendant to proceed with his case. *White v. Abrams*, C.A.Cal., 495 F.2d 724, 729. Courts use concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a conclusion in favor of allegation he asserts; this means plaintiff's evidence is sufficient to allow his case to go to jury, and (2) courts used "prima facie" to mean not only that plaintiff's evidence would reasonably allow conclusion plaintiff seeks, but also that plaintiff's evidence compels such a conclusion if the defendant produces no evidence to rebut it. *Husbands v. Com. of Pa.*, D.C.Pa., 395 F.Supp. 1107, 1139.

Prima facie evidence. Evidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence. *State v. Haremza*, 213 Kan. 201, 515 P.2d 1217, 1222.

Prima facie evidence is evidence that, until its effect is overcome by other evidence, will suffice as

proof of fact in issue; "prima facie case" is one that will entitle party to recover if no evidence to contrary is offered by opposite party. *Duncan v. Butterov Inc.*, Tex.Civ.App., 474 S.W.2d 619, 621. Evidence which suffices for the proof of a particular fact until contradicted and overcome by other evidence. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact in the absence of proof, or until proof can be obtained or produced to overcome the inference.

See also **Presumptive evidence**.

Prima facie tort. The infliction of intentional harm resulting in damage, without excuse or justification by an act or series of acts which would otherwise be lawful. *Cartwright v. Golub Corp.*, 51 A.D.2d 403, 381 N.Y.S.2d 901, 902.

Primage /práymaj/. In old mercantile law, a small allowance or compensation payable to the master and mariners of a ship or vessel; to the former for the use of his cables and ropes to discharge the goods of the merchant; to the latter for lading and unlading in a port or haven. It is no longer, however, a gratuity to the master, unless especially stipulated; but it belongs to the owners or freighters, and is nothing but an increase of the freight rate.

Prima pars æquitatis æqualitas /práyma párz è wotéydas ækwólatés/. The radical element of equity is equality.

Primary. First; principal; chief; leading. First in order of time, or development, or in intention. As **primary Conveyance**; **Election**; **Obligation**; **Artery**; **Vein**, see those titles.

Primary activity. Concerted action such as a strike or picketing directed against the employer with whom has a dispute. Compare, **secondary activity**.

Primary allegation. The opening pleading in a suit in the ecclesiastical court. It is also called a "prima plea."

Primary beneficiary. In life insurance, the person named in the policy who is to receive the proceeds on the death of the insured if such person is alive. If deceased, the proceeds are payable to a secondary beneficiary also designated as such in the policy.

Primary boycott. Action by a union by which it tries to induce people not to use, handle, transport or purchase goods of an employer with which the union has a grievance. See also **Boycott**.

Primary disposal of the soil. In acts of congress admitting territories as states, and providing that no law shall be passed interfering with the primary disposal of the soil, this means the disposal of it by the United States government when it parts with its title to private persons or corporations acquiring the right by a patent or deed in accordance with law.

Primary election. A preliminary election for the nomination of candidates for office or of delegates to party convention, designed as a substitute for party conventions. Such elections are classified as closed or open depending on whether or not tests of party

Where contract does not fix a time for performance, the law allows "reasonable time" for performance, defined as such time as is necessary, conveniently, to do what the contract requires to be done, as soon as circumstances will permit. *Houston County v. Leo L. Landauer & Associates, Inc.*, Tex. Civ.App., 424 S.W.2d 458, 463.

See also **Time**.

Reasonable use theory. A riparian owner may make reasonable use of his water for either natural or artificial wants. However, he may not so use his rights so as to affect the quantity or quality of water available to a lower riparian owner.

Reassessment. Re-estimating the value of a specific property or all property in a given area for tax assessment purposes.

Reassurance. Exists where an insurer procures the whole or a part of the sum which he has insured (*i.e.*, contracted to pay in case of loss, death, etc.) to be insured again to him by another insurer. See also **Reinsurance**.

Rebate. Discount; deduction or refund of money in consideration of prompt payment. A deduction from a stipulated premium on a policy of insurance, in pursuance of an antecedent contract. A deduction or drawback from a stipulated payment, charge, or rate (as, a rate for the transportation of freight by a railroad), not taken out in advance of payment, but handed back to the payer after he has paid the full stipulated sum. See also **Discount**.

Portion of a transportation charge refunded to a shipper. Rebates are forbidden by the Interstate Commerce Act.

Tax rebate is an amount returned (*i.e.* refunded) to the taxpayer after he has made full payment of the tax.

See also **Elkins Act**; **Kickback**; **Refund**.

Rebellion. Deliberate, organized resistance, by force and arms, to the laws or operations of the government, committed by a subject. *Crashley v. Press Pub. Co.*, 74 App.Div. 118, 77 N.Y.S. 711. It is a federal crime to incite, assist, or engage in any rebellion or insurrection against the authority of the United States or the laws thereof. 18 U.S.C.A. § 2383.

In old English law, also a contempt of a court manifested by disobedience to its process, particularly of the court of chancery. If a defendant refused to appear, after attachment and proclamation, a "commission of rebellion" issued against him. 3 Bl.Comm. 444.

Rebellious assembly. In old English law, a gathering of twelve persons or more, intending, going about, or practicing unlawfully and of their own authority to change any laws of the realm; or to destroy the inclosure of any park or ground inclosed, banks of fish-ponds, pools, conduits, etc., to the intent the same shall remain void; or that they shall have way in any of the said grounds; or to destroy the deer in any park, fish in ponds, coneys in any warren, dove-houses, etc.; or to burn sacks of corn; or to abate rents or prices of victuals, etc. See also **Unlawful assembly**.

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Rebus sic stantibus *riybas sik stantibus*. Lat. At this point of affairs; in these circumstances. A name given to a tacit condition, said to attach to all treaties, that they shall cease to be obligatory so soon as the state of facts and conditions upon which they were founded has substantially changed.

Rebut. In pleading and evidence, to defeat, refute, or take away the effect of something. When a plaintiff in an action produces evidence which raises a presumption of the defendant's liability, and the defendant adduces evidence which shows that the presumption is ill-founded, he is said to "rebut it." See **Rebuttable presumption**; **Rebuttal evidence**.

Rebuttable presumption. In the law of evidence, a presumption which may be rebutted by evidence. Otherwise called a "disputable" presumption. A species of legal presumption which holds good until evidence contrary to it is introduced. *Beck v. Kansas City Public Service Co.*, Mo.App., 48 S.W.2d 213, 215. It shifts burden of proof. *Heiner v. Donnan*, 285 U.S. 312, 52 S.Ct. 358, 362, 76 L.Ed. 772. And which standing alone will support a finding against contradictory evidence. *Lieber v. Rigby*, 34 Cal.App.2d 582, 94 P.2d 49, 50. See also **Presumption**.

Rebuttal evidence. Evidence given to explain, repel, counteract, or disprove facts given in evidence by the adverse party. That which tends to explain or contradict or disprove evidence offered by the adverse party. *Layton v. State*, 261 Ind. 251, 301 N.E.2d 633, 636. Evidence which is offered by a party after he has rested his case and after the opponent has rested in order to contradict the opponent's evidence.

Also evidence given in opposition to a presumption of fact or a *prima facie* case; in this sense, it may be not only counteracting evidence, but evidence sufficient to counteract, that is, conclusive. See **Rebuttable presumption**.

Rebutter. In common law pleading, a defendant's answer of fact to a plaintiff's surrejoinder; the third pleading in the series on the part of the defendant.

Recall. A method of removal of official in which power of removal is either granted to or reserved by the people. *Jones v. Harlan*, Tex.Civ.App., 109 S.W.2d 251, 254. Right or procedure by which a public official may be removed from office before the end of his term of office by a vote of the people to be taken on the filing of a petition signed by required number of qualified voters. *Wallace v. Trapp*, 358 Mich. 668, 101 N.W.2d 312, 314. Recall may also be applicable to judges.

To summon a diplomatic minister back to his home court, at the same time depriving him of his office and functions.

Recall a judgment. To revoke, cancel, vacate, or reverse a judgment for matters of fact; when it is annulled by reason of errors of law, it is said to be "reversed."

Recant. To withdraw or repudiate formally and publicly. *Pradlik v. State*, 131 Conn. 682, 41 A.2d 906, 907.

Recapitalization. An arrangement whereby stock, bonds or other securities of a corporation are adjusted as to type, amount, income or priority. United

Sec. 6430. Repealed.

In 1988, P.L. 100-418, Sec. 1941(b)(1), repealed Code Sec. 6430, effective for crude oil removed from the premises on or after 5/23/88.

Prior to repeal, Code Sec. 6430 read as follows:

"SEC 6430 CREDIT OR REFUND OF WINDFALL PROFIT TAXES TO CERTAIN TRUST BENEFICIARIES

"(a) *General rule.*

"That portion of the tax imposed by section 4986 (relating to crude oil windfall profit tax) which is paid by any trust with respect to any qualified beneficiary's allocable trust production shall be treated as an overpayment of such tax by such qualified beneficiary. Any such overpayment shall be credited against the tax imposed by section 4986 or refunded to such qualified beneficiary.

"(b) *Coordination with royalty exemption.*

"(1) In general. If the aggregate amount of the allocable trust production of any qualified beneficiary for any calendar year exceeds such beneficiary's unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under subsection (a) with respect to such qualified beneficiary shall be reduced by an amount which bears the same ratio to the amount which (but for this paragraph) would be so treated as —

"(A) the amount of such excess, bears to

"(B) the aggregate amount of such allocable trust production.

"(2) *Unused exempt royalty limit.* The unused exempt royalty limit of any qualified beneficiary for any calendar year is the excess of —

"(A) the number of days in such calendar year, multiplied by the limitation in barrels determined under the table contained in section 4994(f)(2)(A)(ii), over

"(B) the amount of exempt royalty oil (within the meaning of section 4994(f)) —

"(i) with respect to which such qualified beneficiary is the producer, and

"(ii) which is removed from the premises during such calendar year.

"(3) *Allocation.* Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the amount determined under paragraph (2)(A).

"(c) *Allocable trust production.*

"For purposes of this section —

"(1) In general. The term 'allocable trust production' means, with respect to any qualified beneficiary, the qualified royalty production of any trust which —

"(A) is removed from the premises during the calendar year, and

"(B) is allocated to such qualified beneficiary under paragraph (2).

"(2) *Allocation of production.*

"(A) In general. The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries as follows:

"(i) there shall be allocated to the trust an amount of production based on the amount of any reserve for depletion for the calendar year with respect to qualified royalty production, and

"(ii) production not allocated under clause (i) shall be allocated between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year.

"(B) *Definition and special rule.* For purposes of this paragraph —

"(i) *Adjusted distributable net income.* The term 'adjusted distributable net income' means distributable net income (as defined in section 643) for the calendar year reduced by the excess (if any) of —

"(I) any reserve for depletion for such year with respect to qualified royalty production, over

"(II) the amount allowable as a deduction for depletion to the trust for such year with respect to qualified royalty production.

"(ii) *Allocation pro rata from each unit of production.* Allocations under subparagraph (A) shall be treated as made pro rata from each unit of the qualified royalty production.

"(3) *Production from transferred property.*

"(A) In general. The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer which —

"(i) is described in section 613A(c)(9)(A), and

"(ii) is not described in section 613A(c)(9)(B).

"(B) *Exceptions.* Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by subsection (b)(3) to share the amount determined under subsection (b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

"(d) *Definitions.*

"For purposes of this section —

"(1) *Qualified beneficiary.* The term 'qualified beneficiary' means any individual or estate which is a beneficiary of any trust which is a producer.

"(2) *Qualified royalty production.* The term 'qualified royalty production' means, with respect to any person, taxable crude oil (within the meaning of section 4991(a)) which is attributable to an economic interest of such person other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which —

"(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

"(B) is not created pursuant to a binding contract entered into before June 10, 1981.

"(3) *Producer.* The term 'producer' has the meaning given to such term by section 4996(a)(1).

"(e) *Regulations.*

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

In 1983, P.L. 97-448, Sec. 106(a)(4)(A), added Code Sec. 6430, effective for calendar years begin after 12/31/81.

CHAPTER 66.—LIMITATIONS

Subchapter

- A. Limitations on assessment and collection.
- B. Limitations on credit or refund.
- C. Mitigation of effect of period of limitations.
- D. Periods of limitation in judicial proceedings.

Subchapter A.—Limitations on Assessment and Collection

Sec.

- 6501. Limitations on assessment and collection.
- 6502. Collection after assessment.
- 6503. Suspension of running of period of limitation.
- 6504. Cross references.

Sec. 6501. Limitations on assessment and collection.

(a) General rule.

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term "return" means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) Time return deemed filed.

(1) **Early return.** For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 3, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) **Return of certain employment taxes and tax imposed by chapter 3.** For purposes of this section, if a return of tax imposed by chapter 3, 21, or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) **Return executed by Secretary.** Notwithstanding the provisions of paragraph (2) of section 6020(b), the execu-

tion of a return by the Secretary pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

(4) **Return of excise taxes.** For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

(c) **Exceptions.**

(1) **False return.** In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) **Willful attempt to evade tax.** In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) **No return.** In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) **Extension by agreement.**

(A) In general. Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(B) Notice to taxpayer of right to refuse or limit extension. The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.

(5) **Tax resulting from changes in certain income tax or estate tax credits.** For special rules applicable in cases where the adjustment of certain taxes allowed as a credit against income taxes or estate taxes results in additional tax, see section 905(c) (relating to the foreign tax credit for income tax purposes) and section 2016 (relating to taxes of foreign countries, States, etc., claimed as credit against estate taxes).

(6) **Termination of private foundation status.** In the case of a tax on termination of private foundation status under section 507, such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(7) **Special rule for certain amended returns.** Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.

(8) **Failure to notify Secretary of certain foreign transfers.** In the case of any information which is required to be reported to the Secretary under section 6038, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.

(9) **Gift tax on certain gifts not shown on return.** If an gift of property the value of which (or any increase in taxable gifts required under section 2701(d) which) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.

(d) **Request for prompt assessment.**

Except as otherwise provided in subsection (c), (e), or (f) in the case of any tax (other than the tax imposed by chapter 11 of subtitle B, relating to estate taxes) for which return is required in the case of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made and filed in such manner and such form as may be prescribed by regulations of the Secretary) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) (A) such written request notifies the Secretary that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is in good faith begun before the expiration of such 18-month period, and (C) the dissolution is completed;

(2) (A) such written request notifies the Secretary that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(e) **Substantial omission of items.**

Except as otherwise provided in subsection (c)—

(1) **Income taxes.** In the case of any tax imposed by subtitle A—

(A) General rule. If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph—

(i) in the case of a trade or business, the term "gross income" means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services; and

(ii) in determining the amount omitted from gross income, there shall not be taken into account any amount which is omitted from gross income stated in

the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(B) **Constructive dividends.** If the taxpayer omits from gross income an amount properly includible therein under section 551(b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(2) **Estate and gift taxes.** In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(3) **Excise taxes.** In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 41, 42, 43, or 44 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the existence and nature of such item.

(f) Personal holding company tax.

If a corporation which is a personal holding company for any taxable year fails to file with its return under chapter 1 for such year a schedule setting forth—

(1) the items of gross income and adjusted ordinary gross income, described in section 543, received by the corporation during such year, and

(2) the names and addresses of the individuals who owned, within the meaning of section 544 (relating to rules for determining stock ownership), at any time during the last half of such year more than 50 percent in value of the outstanding capital stock of the corporation,

the personal holding company tax for such year may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

(g) Certain income tax returns of corporations.

(1) **Trusts or partnerships.** If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if such taxpayer is thereafter held to be a corporation for the taxable year for which the

return is filed, such return shall be deemed the return of the corporation for purposes of this section.

(2) **Exempt organizations.** If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if such taxpayer is thereafter held to be a taxable organization for the taxable year for which the return is filed, such return shall be deemed the return of the organization for purposes of this section.

(3) **DISC.** If a corporation determines in good faith that it is a DISC (as defined in section 992(a)) and files a return as such under section 6011(c)(2) and if such corporation is thereafter held to be a corporation which is not a DISC for the taxable year for which the return is filed, such return shall be deemed the return of a corporation which is not a DISC for purposes of this section.

(h) Net operating loss carryback or capital loss carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed.

(i) Foreign tax carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of a carryback under section 904(c) (relating to carryback and carryover of excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(c) or 907(f) which result in such carryback.

(j) Certain credit carrybacks.

(1) **In general.** In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused credit which results in such carryback may be assessed, or with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

(2) **Credit carryback defined.** For purposes of this subsection, the term "credit carryback" has the meaning given such term by section 6511(d)(4)(C).

(k) Tentative carryback adjustment assessment period.

In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback and refund adjustments) by reason of a net operating loss carryback, a capital loss carryback, or a credit carryback (as defined in Section 6511(d)(4)(C)) to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h) or (j), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h) or (j), as the case may be.

(l) Special rule for chapter 42 and similar taxes.

(1) In general. For purposes of any tax imposed by section 4912, by chapter 42 (other than section 4940), or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, trust, or other organization (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred. For purposes of section 4940, such return is the return filed by the private foundation for the taxable year for which the tax is imposed.

(2) Certain contributions to section 501(c)(3) organizations. In the case of a deficiency of tax of a private foundation making a contribution in the manner provided in section 4942(g)(3) (relating to certain contributions to section 501(c)(3) organizations) attributable to the failure of a section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

(3) Certain set-asides described in section 4942(g)(2). In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(ii), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

(m) Deficiencies attributable to election of certain credits.

The period for assessing a deficiency attributable to any election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation).

(n) Cross references.

(1) For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).

(2) For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.

(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an over-sheltered return, see section 6234.

In 1998, P.L. 105-206, Sec. 3461(b)(1), substituted "(A) In general. Where" for "Where" in para. (c)(4). . . Sec. 3461(b)(2), added subpara. (c)(4)(B), effective for requests to extend the period of limitations made after 12/31/99.

—P.L. 105-206, Sec. 6007(e)(2)(A), deleted "The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a)." at the end of para. (c)(9), effective for gifts made in calendar yrs. end. after 8/5/97.

—P.L. 105-206, Sec. 6023(d), substituted "election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) or any" for "election under section 30(d)(4), 40(f), 43, 45B or 51(j) or any" in subsec. (m), effective 7/22/98.

In 1997, P.L. 105-34, Sec. 506(b), amended para. (c)(9), effective for gifts made in calendar yrs. end. after 8/5/97.
Prior to amendment, para. (c)(9) read as follows:

"(9) Gift tax on certain gifts not shown on return. If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 without regard to section 2503(b), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to

the return, in a manner adequate to apprise the Secretary of the nature of such item."

—P.L. 105-34, Sec. 1145(a), amended para. (c)(8), effective for information the due date for reporting of which is after 8/5/97.

Prior to amendment, para. (c)(8) read as follows:

"(8) Failure to notify Secretary under section 6038B. In the case of any tax imposed on any exchange or distribution by reason of subsection (a), (d), or (e) of section 367, the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange or distribution under section 6038B(a)."

—P.L. 105-34, Sec. 1239(e)(2), added para. (c)(3) [sic: (c)(3)], effective for partnership tax yrs. end. after 8/5/97.

—P.L. 105-34, Sec. 1284(a), added a sentence at the end of subsec. (a), effective for tax yrs. begin. after 3/5/97.

In 1996, P.L. 104-188, Sec. 1702(e)(3)(A), repealed subsec. (m) [repealed previously by Sec. 1941(b)(2)(H) of P.L. 100-418, see below] and redesignated subssecs. (n) and (o) as (m) and (n). . . Sec. 1702(e)(3)(B), substituted "section 40(f), 43, or 51(j)" for "section 40(f) or 51(j)" in subsec. (m) [as redesignated by Sec. 1702(e)(3)(A) of this Act, see above] effective for costs paid or incurred in tax yrs. begin. after 12/31/90, except as provided in Sec. 11511(c)(2) of P.L. 101-508, reproduced below.

—P.L. 104-188, Sec. 1703(n)(8), substituted "45B, or 51(j)" for "or 51(j)" in subsec. (m) [as redesignated by Sec. 1702(e)(3)(A) of this Act, see above], effective for taxes paid after 12/31/93.

—P.L. 104-188, Sec. 1704(j)(4)(B), substituted "section 30(d)(4), 40(f)" for "section 40(f)" in subsec. (m) [as redesignated by Sec. 1702(e)(3)(A) of this Act, see above], effective 3/20/96.

In 1990, P.L. 101-508, Sec. 11511(c)(2), provides:

"(2) Subsection (m) of section 6501 is amended by striking '44B' each place it appears and inserting '43 or 44B'."

However, P.L. 100-418, Sec. 1941(b)(2)(H), repealed subsec. (m), see below.

Prior to repeal, subsec. (m) contained no references to section "44B".

—P.L. 101-508, Sec. 11602(b), added para. (c)(9), effective for gifts after 10/8/90.

In 1989, P.L. 101-239, Sec. 7814(e)(2)(E), deleted "41(h)" following "section 40(f)" in subsec. (n), effective for tax yrs. begin. after 12/31/88.

In 1988, P.L. 100-647, Sec. 1008(j)(1), deleted para. (o)(3), effective for amounts received after 12/31/86, in tax yrs. end. after such date.

Prior to deletion para. (o)(3) read as follows:

"(3) For extension of period in the case of certain contributions in aid of construction, see section 118(c)."

—P.L. 100-647, Sec. 4008(c)(2), substituted "41(b), or 51(j)" for "or 51(j)" in subsec. (n) effective for tax yrs. begin. after 12/31/88.

—P.L. 100-418, Sec. 1941(b)(2)(H), repealed subsec. (m), effective for crude oil removed from the premises on or after 8/23/88.

Prior to repeal, subsec. (m) read as follows:

"(m) Special rules for windfall profit tax.

"(1) Oil subject to withholding.

"(A) In general. In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in this section shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year ends.

"(B) Removal year. For purposes of subparagraph (A), the term 'removal year' means the calendar year in which the oil is removed from the premises.

"(2) Extension of liability attributable to DOE reclassification.

"(A) In general. In the case of the tax imposed by chapter 45, if a Department of Energy change becomes final, the period for assessing any deficiency attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

"(B) Department of Energy Change. For purposes of subparagraph (A) and section 6511(h)(2), the term 'Department of Energy change' means any change by the Department of Energy in the classification under the June 1979 energy regulations (as defined in section 4996(b)(5)(C)) of a property or of domestic crude oil from a property.

"(3) Cross reference.

For extension of period for windfall profit tax items of partnerships, see section 6229 as made applicable by section 6232."

In 1987, P.L. 100-203, Sec. 10712(e)(2), substituted "plan, trust or other organization" for "plan, or trust" in para. (1)(1). . . Sec. 10714(c), substituted "by section 4912, by chapter 42 (other than section 4940)," for "by chapter 42 (other than section 4940)" in para. (1)(1), effective for tax yrs. begin. after 12/22/87.

In 1986, P.L. 99-514, Sec. 1810(g)(3)(A), substituted "(a), (d), or (e)" for "(a) or (d)" in para. (c)(8). . . Sec. 1810(g)(3)(B), substituted "exchange or distribution" for "exchange" each time it appeared in para. (c)(8), effective for transfers or exchanges after

Post Enforcement Remedies or what to do when they still will not comply

- A. This section will educate you as to the procedures the IRS will use against you when they come after you for books and records.

- B. We have seen many people roll over or totally blow these hearings.
 - 1. Then there are those who get bad advice and file or send in paperwork that gets them into a lot more trouble than a simple summons hearing.
 - 2. Then there are those who get into programs that were never designed to work in the first place or that only have a slight chance of helping you.
 - 3. You also have to deal with all the sting and undercover operations that are run by the IRS, FBI, JDL, BATF, ADL, Southern Property Law Center etc....
 - a. These programs are designed to keep you from getting and using effective information and methods to defend your rights.
 - 4. Ask yourself:
 - a. How useful is this information?
 - b. How much is it going to cost me?
 - c. How much bang am I going to get for my buck?
 - d. What are the ramifications of using it?
 - e. Does this method pertain to me as an individual?
 - f. How effective is this going to be a year or 2 years from now?

- C. We suggest that you stay away from Commercial Liens in any way, shape, or form.
 - 1. Those who are novices get eaten alive so fast by this method that they don't even know what happened to them until it is too late.

- D. We suggest that you do not file any lawsuits against anyone over your tax problem.

1. We know of a number of these schemes going around as we have been called ourselves several times by someone promoting joining into a lawsuit and it will only cost us \$2000.00 to \$5000.00 usually to be apart of it.
 2. Most of these people, as sure as they are, do not have a clue of what they are doing nor the ramifications of what will happen after this lawsuit fails.
 3. Then we have seen some of these same people come back around wanting more money to refile the suit again.
- E. Desperate people will do desperate things and not study out their options.
1. We know because we get the calls and pleas for help.
- F. This section was written for U.S. Attorneys to help them understand their procedures and options in dealing with summons.
- G. This section will teach you what they can do so you can learn how to counter what they are going to try to do.
- H. There are a number of successful procedures you can counter with especially when you know what options they have and what they will be using months down the road.
1. You can then be prepared to effectively deal with them at that level.

Post-Enforcement Remedies or What to Do When They Still Will Not Comply

When a court orders enforcement of a summons, the respondent is usually required to make arrangements with the IRS to appear and comply with the summons within a set time, i.e., 30 days. In most instances, the respondent does comply and that is the end of the matter. In some instances, however, particularly in cases involving illegal tax protesters, the respondent will refuse to comply even after being ordered to do so. If the respondent refuses to comply, the Government may seek a finding of civil contempt, as well as sanctions to compel compliance. These sanctions may include monetary fines for continued noncompliance, compensatory attorney's fees, costs for the Government, and incarceration. In fact, where the IRS has already made large tax assessments against the respondent, as is often the case in the context of a collection summons, incarceration may be the only sanction that holds any possibility of achieving compliance.

The recipient of an IRS summons has an affirmative duty to preserve and retain possession of summoned records, and to produce them when ordered by the court. The duties and obligations of the parties are fixed as of the date the summons is served, and a party cannot avoid compliance by transferring records to someone else after the summons is served. *Couch v. United States*, 409 U.S. 322, 329 n.9 (1973). On occasion, summoned parties will transfer otherwise unprivileged records to an attorney in order to make the claim that the records are covered by the attorney/client privilege. The Supreme Court has explicitly disallowed this practice. See *Fisher v. United States*, 425 U.S. 391, 396-401 (1976).

If the Government brings a contempt proceeding to enforce the court's summons enforcement order, then it is only required to establish a *prima facie* case of contempt. To do so, the Government must demonstrate that certain conduct was required (or prohibited) by a previous court order (i.e., compliance with the summons) and that the alleged contemner failed to comply with the same. See, e.g., *United States v. Hayes*, 722 F.2d 723, 725 (11th Cir. 1984). A *prima facie* case for contempt may be made using affidavits attached to

the petition or sworn testimony presented in open court. In several recent cases, illegal tax protesters have filed pleadings explicitly stating that they refuse "without dishonor" (which apparently derives from some misinterpretation of the Uniform Commercial Code) to accept the court's decision.

The show cause order places the burden of proof on the alleged contemner (respondent). In this regard, he or she must bring forth facts showing why he or she should not be held in contempt for not complying with the court's enforcement order. In a contempt proceeding, it is not necessary for the Government to establish that the respondent has the capacity to comply. Rather, the contrary burden is on the respondent who must show why he or she is unable to comply. *United States v. Rylander*, 460 U.S. 752, 757 (1983).

In the context of summons enforcement cases, the burden is on the respondent to produce evidence not only of his or her present inability to produce the requested information, but that he or she has taken all steps that are legal and necessary to obtain and produce the summoned records. *Hayes*, 722 F.2d at 726; *United States v. Drollinger*, 80 F.3d 389, 393 (9th Cir. 1996). In raising the defense of present inability to comply, the respondent bears the burden of production, including the burden to show that he or she has, in good faith, made all reasonable efforts to comply with the summons. A mere showing of "some effort" to comply is not sufficient. *Hayes*, 722 F.2d at 725.

A contempt proceeding does not open the door to reconsideration of the legal or factual basis of the order alleged to have been disobeyed. *Maggio v. Zeitz*, 333 U.S. 56, 59 (1948). The only proper question at the contempt stage is whether the contemner has the present ability to obey the court's enforcement order. Because the enforcement order is final and appealable, it is binding on the contemner, and all issues that were raised or could have been raised in the enforcement hearing are *res judicata* and may not be raised anew in the contempt hearing. See *Rylander*, 460 U.S. at 757; *United States v. Brown*, 918 F.2d 82, 83 (9th Cir. 1990).

Merely obtaining an adjudication of contempt, however, is not enough. A civil contempt order is not "final" unless (1) a finding of contempt is issued and (2) an appropriate sanction is imposed. See *Steinert v. United States*, 571 F.2d 1105, 1107 (9th Cir. 1978); *Motorola, Inc. v. Computer Displays, Int'l*, 739 F.2d

Making an Appealable Record on Fifth Amendment Claims

- A. When using the 5th Amendment procedure be very careful in what you do and how you do it.
- B. Read the Troescher transcript in our Level one course page 190 including the court cases raised in this section to get a overall view concerning raising the 5th amendment procedure.
- C. Go to Exhibit A and read the entire section on the right hand side paying very close attention to the last sentence, “To avoid the kind of protracted litigation encountered in these cases...”
 - 1. The longer you can protract their litigation the more time you have to do a number of procedures designed to protect you by building up evidence in your file which is in their custody.
 - 2. As we have taught you in other “VIP Dispatches” you can actually take control over the information contents of your file by placing credible evidence into the record.
 - a. From what we have seen and experienced over the years taking over and controlling “YOUR FILE” is extremely important.
 - b. Anyone who tells you it isn’t, doesn’t know what they are doing. They may be blowing smoke up your you know what, trying to get you to follow them.
- D. There are times you might want to use the 5th Amendment and then there are times you will not want to use it.

1149, 1154 (7th Cir. 1984). As noted above, sanctions available in civil contempt situations include coercive fines, compensatory fines, and incarceration. If a taxpayer has destroyed information between the time he or she was served with the summons and the time the enforcement order was entered, then the Government can ask to be compensated for the actual damage caused by the contemner's conduct, including costs and attorneys fees. *United States v. Asay*, 614 F.2d 655 (9th Cir. 1980).

Some individuals will be persuaded to comply with a summons because of the imposition of monetary sanctions. The Government, however, often seeks to enforce summonses against individuals who have already amassed large unpaid tax liabilities or who are unwilling to acknowledge any order of a district court. If this is the case, the Government should carefully evaluate the circumstances and determine whether it is appropriate to ask the court to incarcerate the contemner. In reality, courts are reluctant to order incarceration unless and until the court is satisfied that nothing else will work. However, there are instances where courts have incarcerated individuals who refuse to comply with properly issued IRS summonses. *See, e.g., United States v. Carroll*, 567 F.2d 955 (10th Cir. 1977).

Since civil contempt is supposed to effect compliance with enforcement orders and not be punitive, any period of incarceration for contempt should be terminated at the point that the court becomes convinced there is no reasonable possibility that continued incarceration will induce compliance. Some judges will hold periodic hearings with the contemner to evaluate whether incarceration still has the possibility of being coercive. Other judges leave it to the contemner to indicate that he or she is willing to purge the contempt. In the Tax Division's experience, courts will not hold someone in custody on civil contempt for longer than 18 months. There have, however, been instances where individuals have remained incarcerated for a full 18 months, rather than comply with an IRS summons. Since summons enforcement responsibility is shared by USAOs and the Tax Division, contempt sanctions, including incarceration, may be sought in cases initially handled by the Tax Division. In contempt cases, it may be necessary for AUSAs and Tax Division attorneys to work together because these proceedings often require multiple hearings on relatively short notice.

Making an Appealable Record on Fifth Amendment Claims

One area of continuing concern in the post-enforcement context involves the taxpayer's blanket invocation of the Fifth Amendment privilege. As discussed in greater detail at pages 70 to 77 of the *Primer*, a party (usually the taxpayer) who desires to invoke his or her Fifth Amendment privilege in defense to enforcement of a summons *must* do so at the enforcement proceeding on a question-by-question and document-by-document basis. *United States v. Bell*, 448 F. 2d 40, 42 (9th Cir. 1971); *United States v. Davis*, 636 F.2d 1028, 1038-39 (5th Cir.), *cert. denied*, 454 U.S. 862 (1981). All too often, district courts simply overrule blanket assertions of privilege and enter orders enforcing summonses without any meaningful attempt to make the necessary question-by-question, document-by-document inquiry. When confronted with this issue, the courts of appeal usually remand the case to the district court for a particularized inquiry (through an *in camera* inspection, if necessary) of the claim of privilege. *See, e.g., United States v. Grable*, 98 F.3d 251 (6th Cir. 1996), *cert. denied*, 117 S. Ct. 691 (1997); *United States v. Argomaniz*, 925 F.2d 1349 (11th Cir. 1991).

Furthermore, if the question-by-question, document-by-document inquiry was not made at the enforcement hearing, the courts of appeal generally mandate that such an inquiry be made as part of the contempt proceeding. *See, e.g., Grable*, 98 F.3d at 257; *Drollinger*, 80 F.3d at 392; *United States v. Allee*, 888 F.2d 208, 213 (1st Cir. 1989). To avoid the kind of protracted litigation encountered in these cases, Government attorneys handling IRS summons enforcement cases should ensure that Fifth Amendment defenses are properly addressed at the enforcement hearing.

Conclusion

This article only provides a brief overview of some special problems encountered in summons

2039 Summons

- A. We know some of you have had to deal with these 2039 Summons on page 047.
1. If you have not had to deal with an IRS Summons yet, we hope to give you a basic understanding of the concept of this process and the procedures involved in it.
- B. Look at the IRS summons. Can you find the major procedural mistake that Special Agent Marc Baker committed?
1. Marc Baker signed this form where it says “signature of IRS officer serving the Summons.”
 - a. Under the Attestation he served the summons.
 2. At the bottom of the summons he again signs his name above the line that says, “Signature of issuing officer.”
 - a. Now he admits to have issued the Summons.
 3. First let’s look at “serve” which is not in Blacks Law Dictionary, but is listed in Ballentine’s Law Dictionary. “Serve”- “To make or effect a service of the process of a court; as to serve a subpoena or summons. To perform a duty. To be a Servant”
 4. Second let’s look at “issue” in Ballentines’ Law Dictionary, which takes us to “issuing writ or process.” The preparing, signing, sealing, and delivering of the Writ or process to the sheriff or other proper officer for service or levy.
 5. Now do you see what is wrong?
 6. You cannot be both the issuing officer and the serving officer. How can he be a servant unto himself?
 - a. Are we looking at a substantive due process violation concerning this Particular Summons?
- C. Next look at the Attestation Statement on the Summons form.
1. Where is the original?
 - a. Do a FOIA request for it!

- D. There are a number of other issues that can also be raised.
- E. What is being summoned? See page 048 (attachment to Summons).
1. They want handwriting exemplars, photographs, and fingerprints.
- F. Go to Exhibit A, 1 of 4 next page, which includes four pages from the transcript concerning the meetings with Marc Baker, whose name is on the Transcript as “Baker.”
1. Our hero is X-1 and his witness are W-1 and W-2.
 2. At page 29 of the transcript or Exhibit A, 1 of 4, read lines 1-4.
 - a. In other words where is the statute and implementing regulation that makes it mandatory that our Hero has to give the requested items?
 3. After reading just these four pages we see that Special Agent Marc Baker does not have a clue as to the statute and implementing regulations that authorizes him to request these items.
 4. He also didn't know if it was voluntary or mandatory concerning the items “requested.”
- G. Did our hero turn anything over to Marc Baker? NO!
- H. After our Hero followed this process and refused to volunteer any of the items requested, Mark Baker would have to go to the U.S. Attorney to see if the U.S. Attorney would file an action in Federal Court.
1. Then on down the road a regular Federal Judge (not a Magistrate) will have to issue the exact order compelling our hero to turn over the items requested.
 2. Sometimes they will go through this process but usually they don't want to perform all the necessary procedures required to obtain the summoned items.
- I. The bottom line is that if you don't know your substantive rights and exercise them, you waive them.
1. We attended all those years of school including college and do not remember one class offered concerning “How to protect your substantive rights.”

2. But we were conditioned by the government schools and churches on how to waive those rights and accept your bowl of porridge from the BIG MIGHTY FATHER in Washington DC and be happy about it.

PLEASE SIR MAY I HAVE MORE?

YOU WANT MORE !



Summons

In the matter of _____
Internal Revenue ~~District of~~ Criminal Investigation- Detroit Field Office Periods 1995 - 2000

The Commissioner of Internal Revenue

To: _____

At: _____

Bloomfield

You are hereby summoned and required to appear before Special Agent Marc Baker or other designated agent
an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers,
and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the
administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

See Attachment

Attestation

I hereby certify that I have examined and compared this copy of the summons with the original
and that it is a true and correct copy of the original.

Marc Baker Signature of IRS officer serving the summons Special Agent Title

Business address and telephone number of IRS officer before whom you are to appear:

477 Michigan Ave # 2075 Detroit, Michigan 48226 313-628-

Place and time for appearance at 477 Michigan Ave #2075 Detroit, MI 48226 313-628-



on the 12th day of April, 2002 at 10 o'clock a m.

Issued under authority of the Internal Revenue Code this 19th day of March, (year)

Marc Baker Signature of issuing officer Special Agent Title

Signature of approving officer (if applicable) Title

Department of the Treasury
Internal Revenue Service

www.irs.ustreas.gov

Form 2039 (Rev. 9-1999)
Catalog Number 21405J



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MARC BAKER
SPECIAL AGENT
INVESTIGATION
INTERNAL REVENUE SERVICE
477 Michigan Ave 2075
Detroit, MI 48226

Dear

You are hereby summoned and required to appear before Special Agent Marc Baker or other designated agent to provide handwriting exemplars, photographs and fingerprints.

If you have any questions, please contact Marc Baker, Special Agent, at 313-628-

Sincerely,

Marc Baker 

Marc Baker
Special Agent

1 MR. X-1 No. I'm saying, if there's a statute
2 implementing regulation as a result of the summons, I have
3 no problem providing those things. If it's voluntary,
4 then I don't wish to volunteer.

5 MR. BAKER: Right. Okay.

6 MR. X-1 But, if it's mandatory, I want to do
7 them. But I'm not able to find them, that's why I asked
8 this question. I can't find the statute implementing
9 regulations.

10 MR. W-1 If you want, give him a couple
11 of days, then you could come back. Then you can do it
12 alone, actually.

13 MR. BAKER: They wouldn't witness -- They
14 wouldn't go back there.

15 MR. W-1 : Give him time to do it, and
16 then come back.

17 MR. BAKER: So we can speed this process up, a
18 phone call could just -- I mean that would save -- seconds
19 compared to days.

20 MR. W-1 . Could I ask a question? You
21 say a phone call, but in a summons, don't you have to make
22 a personal appearance?

23 MR. BAKER: No, no, a phone call meaning him
24 telling me, okay, this is the things I want, or this is
25 what I need, or even, when is the best time like we can

1 reschedule?

2 MR. X-1 Does my request make sense, though?

3 I mean, I'm not trying to make this difficult. I'm not
4 trying to make it complicated, and I'm not trying to
5 stretch it out. Do you believe it's a reasonable request
6 to have the statute implementing regulations?

7 MR. BAKER: I guess I can kind of understand.
8 But, to me, realistically, it's like, if we were not able
9 to do this, or if it was against the law or something, I
10 wouldn't come out and give you the summons. I wouldn't
11 have done all these things if there was no statute, no
12 law, you know what I'm saying?

13 MR. X-1 No, but --

14 MR. BAKER: I wouldn't have went through this
15 whole process and then there's no law saying that you have
16 to do this. It doesn't make sense, for me to come out to
17 your house, give you a summons for something that you
18 don't even have to do if you don't want to.

19 MR. X-1. And it doesn't make sense to me. But
20 the problem that I'm having is I can't find it. And it's
21 the problem that I have. It may be stupid, you know, give
22 me some hope, because I'm here to --

23 MR. BAKER: Okay. So, I find the statute, and I
24 tell you, then you're going to research it and look it up,
25 then you're going to come with some more questions that

Exhibit A 2 of 4

1 you're going to want me to answer. Now, will you have to
2 write this up, or will you give me a phone call and be
3 like okay, now since you gave me this statute -- This
4 things been done a hundred times. It's a natural process.
5 Once you get one question answered, you find a bunch of
6 other questions, and then you want me to answer all them.
7 This whole investigation is not going to be just answering
8 your questions.

9 MR. W-2: That's the whole purpose for our
10 legal system is for a person to be allowed to defend
11 himself.

12 MR. BAKER: Exactly. In court, though, but not
13 in this interview.

14 MR. W-1: But wouldn't this be part of
15 the sequence of court records that you could bring up
16 later on in court?

17 MR. X-1: I'm sure that's possible.

18 MR. BAKER: Okay. So, pretty much, let me make
19 sure I got everything straight. You want to know which
20 statute mandates you to do the fingerprints and
21 handwriting?

22 MR. X-1: And implementing regulations. And
23 that's something we talked about with the Cleveland
24 Indians case. Both of those things are required.

25 MR. BAKER: Okay. You want to know the statute

1 and the regulation?

2 MR. X-1. Yes.

3 MR. BAKER: All right. Well, that's pretty much
4 it then, right?

5 MR. X-1 : Does that sound good?

6 MR. BAKER: I just want you to understand, this
7 case is still moving whether we get back together within a
8 couple of days, within a week, within the next month,
9 within two months, things are still going to keep going
10 into play.

11 MR. X-1 : What does that mean?

12 MR. BAKER: It means that investigative steps
13 will still be taken to prove or disprove that the
14 allegations that were made.

15 MR. X-1. And what are the allegations, because
16 when you were at my house, you would not tell me who made
17 the allegations.

18 MR. BAKER: I did tell you -- Well, I can't tell
19 you who made them, but I can tell you what they are.

20 MR. X-1 : So, I can't face the person who made
21 these accusations?

22 MR. BAKER: Nope. Basically, my job is to find
23 out if the allegations are true or not. That's basically
24 what I do. My job is to investigate.

25 MR. X-1 : But you can't tell me who made the

Motion to Enforce a Court Order

- A. In the previous section, IRS Summons 2039, we told you how the IRS special agent Mac Baker would have to go to the U.S. Attorney to try to get the Summons action into court.
- B. The following 17 pages is the transcript of such a hearing held in District Court in Cincinnati, Ohio before Judge Herman J. Weber who has been on the bench for over 20 years.
- C. You should read the following transcript. It is very interesting.
- D. Go to page 5 of the transcript line 11. He did appear and testify but he didn't give the IRS what they wanted.
 - 1. Read page 6 concerning the 5th Amendment.
- E. Now read page 7 more than once and let it sink in.
 - 1. Judge Weber spills the beans at line 23 and 24 in answer to Mr. Coombes' statement at line 18-22.
 - 2. If everyone would take the 5th Amendment there is nothing they can do and the tax sham is over.
 - a. Lives would then be so much better for everyone except for the Class A stockholder.
 - b. The Bank of England in Rothchild would also be very upset with you and of course they are all tax exempt under the laws of England. It is also a crime to expose any unofficial financial dealings of the Royal Family including the Rothchild who are also one of the stock holders of the Federal Reserve System, central Bank of Germany, Bank of England, etc.
 - 3. We have no one to blame but ourselves for allowing this to happen. They control the money supply and thus control the Politicians by their purse strings.
- F. Do not miss Judge Weber's Statement on page 14 concerning the 5th Amendment.
- G. Return to page 8 and read line 17 through 24.

1. Here we find Mr. Coombe begging to Judge Weber for a way out and what does Judge Weber Say?
 2. "I suggest you file an indictment."
 3. Judge Weber knows they don't have a case against our Hero but just to make sure Judge Weber grills our Hero to make sure the IRS has nothing and can get nothing on our Hero.
- H. Now Judge Weber from our experience will listen to what you have to say if you treat him with respect.
1. Judge Weber is one of the more knowledgeable Judges out of the dozens we have seen in action.
- I. Now did we see our Hero using any of those hundreds of IDIOT LEGAL ARGUMENTS?
- J. Case in point - Stay on point.
- K. Stick to the issues, the main issue, don't let others get you sidetracked on some minor issues.
- L. Our Hero never paid \$20,000-\$50,000 to an Attorney to drop the ball at the 95 yard line, where the government always recovers it!
- M. Our Hero also never paid thousands up front to some organization that promised him the world or some easy way that they will use to solve all his tax problems without his having to do anything or even spend any of his time studying anything.
1. Of course these type of programs will seldom work but they do put lots of sugar on top of these programs which are usually promoted by a use car salesman who knows little more about how the IRS works than the average guy.
 - a. This is why many of them have to resort to those same old IDIOT LEGAL ARGUMENTS.
- N. Our hero simply has a few friends who helped him with his research, studying, and preparation for his court appearance and his battle with the IRS.

- O. No, our Hero has never been indicted as of August 2002.
- P. Don't let the Doom dayers and Soothe sayers destroy your resolve.
- Q. What does it take to be your own hero? Know your rights and defend them.
- R. The law is on your side, if you know how to use it effectively.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA, :
Plaintiff, :
-vs- : CIVIL NO. C-1-95-461
WILLIAM J. MERCER, : Thursday, May 30, 1996
10:09 a.m.
Defendant. : Cincinnati, Ohio

- - -

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HERMAN J. WEBER, JUDGE

- - -

For the Plaintiff: James M. Coombe, Esq.
Assistant United States Attorney
220 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

For the Defendant: William J. Mercer
10133 Breezy Lane
Cincinnati, Ohio 45241

Court Reporter: Julie A. Wolfer, RPR, RMR

- - -

PROCEEDINGS

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THE COURT: Proceed, Mrs. Brockmeier.

THE CLERK: This morning is Civil Action C-1-95-461,
United States of America versus William J. Mercer.

Appearing on behalf of the United States is James
Coombe, and appearing on behalf of Mr. Mercer is Mr. Mercer.

THE COURT: On May the 6th, this Court reinstated or
reopened this case on the docket of this Court and has before
it once again the motion to enforce the Court order or hold
the -- in the alternative hold Mr. Mercer in contempt of court.

We'll proceed at this time to swear the witnesses.
Who is going to testify in the matter?

MR. COOMBE: Your Honor, on behalf of the United
States, IRS group manager Terry Buelow is here today, Your
Honor.

THE COURT: Who is going to testify for you,
Mr. Mercer?

MR. MERCER: Myself.

THE COURT: All right. If you would stand, please.
The witnesses, would you please stand? Would you raise your
right hand?

Would you swear the witnesses?

(William Mercer and Terry Buelow were sworn by the clerk.)

THE COURT: Thank you. Proceed, Mr. Coombe.

MR. COOMBE: Essentially, Your Honor, what we're

1 asking here is the Court to enforce its order because
2 Mr. Mercer was previously ordered by this Court on February
3 21st, 1996 to appear on March 8th before the IRS and to give
4 testimony and to bring any records in his possession that would
5 allow the Internal Revenue Service to prepare a 1040, commonly
6 known as an individual tax return, for the tax year 1992.

7 THE COURT: Now, that isn't exactly what the order
8 said, is it?

9 MR. COOMBE: Well, I think the order speaks for
10 itself, Your Honor.

11 THE COURT: Do you have a copy of the order?

12 MR. COOMBE: I can get it, Your Honor.

13 THE COURT: Do you have a copy of the order,
14 Mr. Mercer? If you don't, I happen to have copies for you.
15 I'll ask Miss Thomas to give them to you.

16 And the documents that I ordered were on the second
17 page in the second paragraph.

18 MR. COOMBE: Your Honor, would you like me to read
19 the order into the record?

20 THE COURT: I think I can read the order, Mr. Coombe.

21 But when I -- it's my understanding that from the
22 transcript that's been supplied me that when asked these
23 questions, he said he had no records.

24 MR. COOMBE: Your Honor, I think the problem we're
25 dealing with here is not whether or not he had records, but he

1 was also asked questions so he could testify so they could get
2 relevant information.

3 THE COURT: I didn't order him to testify, did I?

4 MR. COOMBE: Yes, sir.

5 THE COURT: Where did I --

6 MR. COOMBE: I will read this, sir: The defendant,
7 William J. Mercer -- this is on Page 2, Your Honor -- shall
8 appear before the IRS Officer B. Lawrence in Room 503, John
9 Weld Peck Federal Building, 550 Main Street, on Friday, March
10 8th, 1996 at 10 a.m. to give testimony --

11 THE COURT: Now stop right there. Now, he did appear
12 and he gave testimony.

13 MR. COOMBE: I would dispute that, Your Honor.

14 THE COURT: Well, he did -- you gave me a transcript.

15 MR. COOMBE: Yes. He didn't provide any testimony.

16 THE COURT: I'm sorry. I guess we're not on the same
17 page.

18 MR. COOMBE: I apologize, Your Honor. I don't
19 believe he gave any testimony.

20 THE COURT: All right. I hold that he did give
21 testimony.

22 MR. COOMBE: Okay.

23 THE COURT: Now proceed.

24 MR. COOMBE: I really can't proceed, then, Your
25 Honor.

1 THE COURT: All right. He gave testimony.

2 Now, are you here because he didn't give you the

3 testimony you wanted? Is that why you're here?

4 MR. COOMBE: Well, Your Honor, my understanding is

5 that the whole purpose of this procedure was for the IRS to be

6 able to enforce the summons where it could get testimony needed

7 to prepare a tax return.

8 THE COURT: The whole purpose of this proceeding is

9 to determine whether Mr. Mercer deliberately and intentionally

10 violated the order of this Court, and I say I have been -- he

11 did appear and he did testify.

12 MR. COOMBE: I don't think he answered the questions,

13 Your Honor.

14 THE COURT: "Did you complete it, sir? No, of course

15 not." Did I order him to complete a form?

16 MR. COOMBE: Sir, I think we're talking about a

17 different transcript. I'm talking about the March 8th

18 transcript, Your Honor.

19 THE COURT: That's exactly the -- oh. This is April

20 the 11th.

21 MR. COOMBE: He came in a second time, Your Honor,

22 voluntarily and didn't -- and Ms. Lawrence had instructed

23 him --

24 THE COURT: All right. Let's go to the March 8th.

25 "Donations from whom?" I just picked one line.

1 "From friends." He answered your question.

2 MR. COOMBE: Your Honor, on March --

3 THE COURT: On Page 2.

4 MR. COOMBE: Sir, could we turn to Page 5?

5 THE COURT: Sure.

6 MR. COOMBE: Do you have that in front of you, sir?

7 THE COURT: Yes, sir.

8 MR. COOMBE: They asked him about personal expenses.

9 He said, "ditto".

10 THE COURT: That's right. "Ditto," and he refers
11 back to his Fifth Amendment -- his claiming the Fifth
12 Amendment. He said that he was perjured -- he would perjure
13 himself if he answered the question, and then he said, "Ditto.
14 Ditto. Ditto. Ditto."

15 MR. COOMBE: That's correct.

16 THE COURT: And, to me, he claimed the Fifth
17 Amendment.

18 MR. COOMBE: Your Honor, under the Powell decision
19 which we have cited in both our hearings before Judge Steinberg
20 and the motions we filed in our original complaint, all the
21 United States has to do to have a summons enforced is to
22 provide four pieces of information which we have done countless
23 times before, and that is to show that the inquiry that we're
24 seeking to obtain information for is based on a legitimate
25 request that is to prepare a tax return, the information is not

1 within the hands of the commissioner which has been testified
2 to by Ms. Lawrence previously, and that there is no criminal
3 investigation currently pending, which is the case, and that's
4 been testified to.

5 I really don't know what more the United States --

6 THE COURT: In other words, you say he has no right
7 to claim the Fifth Amendment?

8 MR. COOMBE: Well, Your Honor, I don't think that's
9 been accepted by anybody concerning a civil summons
10 enforcement. I'm not aware of a case that allows him to do
11 that.

12 When there is a criminal investigation, I think there
13 is a chance of incrimination and that's the case. I am
14 maintaining to this Court today that I personally am not aware
15 of any criminal investigation.

16 THE COURT: You mean to tell me that a witness cannot
17 claim the Fifth Amendment in a civil case?

18 MR. COOMBE: I'm saying they can in certain
19 circumstances, Your Honor. But let's ask a rhetorical
20 question. If every single person decides to take the Fifth
21 Amendment on a tax return, the tax is never going to be
22 collected.

23 THE COURT: That's exactly what they can do as I
24 understand it.

25 MR. COOMBE: I'm saying the Courts have ordered that

1 summonses be enforced and people be compelled --

2 THE COURT: I did enforce your summons. Mr. Mercer
3 did testify and he claimed the Fifth Amendment as to certain
4 answers, and in a civil action that can be used against him.
5 That can be inferred against him. But in a criminal matter it
6 can't. The government has not granted immunity in this case to
7 this taxpayer.

8 MR. COOMBE: That's true.

9 THE COURT: And I guess there's no intent to grant
10 immunity.

11 MR. COOMBE: There's no intent to prosecute either
12 right now.

13 THE COURT: All right. But what we're doing here --

14 MR. COOMBE: Your Honor, may I ask the Court a
15 question?

16 THE COURT: Sure.

17 MR. COOMBE: How would the Court suggest the United
18 States wrap this matter up and get the --

19 THE COURT: I suggest you file an indictment.

20 MR. COOMBE: Indictment.

21 THE COURT: Yes, sir.

22 MR. COOMBE: Okay, Your Honor.

23 I don't think there's anything further, then, that
24 the United States has to present.

25 THE COURT: Mr. Mercer.

1 MR. MERCER: Yes, sir.

2 THE COURT: This is between you and me. Get up here.
3 You're under oath.

4 Do you have any W-2 forms for 1992?

5 MR. MERCER: Not that I know of.

6 THE COURT: Do you have any 1099 forms for 1992?

7 MR. MERCER: Not that I know of.

8 THE COURT: Did you search for them?

9 MR. MERCER: Yes, I did.

10 THE COURT: Any employee earning statements?

11 MR. MERCER: None.

12 THE COURT: Records of deposits with banks or other
13 financial institutions?

14 MR. MERCER: Not that I know of.

15 THE COURT: Did you search for them?

16 MR. MERCER: I did look.

17 THE COURT: Do you have any books, records,
18 documents, and receipts for income from wages, salaries, tips,
19 fees, commissions, interest, rents, royalties, alimony, state
20 or local refund taxes, annuities, life insurance policies,
21 endowment contracts, pensions, estates, trusts, discharge of
22 indebtedness, distributive shares of partnership income,
23 business income, gains from dealing in property, and any other
24 compensation for services, including receipts of property or
25 other money?

1 MR. MERCER: For 1992?

2 THE COURT: 1992.

3 MR. MERCER: No, not that I know of.

4 THE COURT: Did you search for them?

5 MR. MERCER: I did.

6 THE COURT: Remember, you're under oath.

7 MR. MERCER: I am.

8 THE COURT: In other words, you have no records of
9 income?

10 MR. MERCER: I have no records for 1992.

11 THE COURT: All right.

12 MR. MERCER: May I ask the Judge --

13 THE COURT: Yes.

14 MR. MERCER: -- the IRS agent a question?

15 THE COURT: Well, you may ask me a question.

16 MR. MERCER: Do they have any records on me or for
17 me?

18 THE COURT: That's really not what we're talking
19 about here. We're talking about whether you violated this
20 order of mine.

21 MR. MERCER: Oh. I have no records.

22 THE COURT: Now, in your briefs you claim the Fifth
23 Amendment. Is that what you're claiming?

24 MR. MERCER: Yes.

25 THE COURT: In other words, you say that if you

1 answered these questions that were propounded to you by the
2 IRS, that you'll perjure yourself?

3 MR. MERCER: I asked them 38 questions that I sent to
4 the district director, and they did not respond.

5 THE COURT: The issue is not whether they
6 responded --

7 MR. MERCER: If they do not answer me, answer the
8 questions, I will -- and without those answers to the
9 questions, I will run -- without knowing the answer to those
10 questions, I will run a risk of perjuring myself.

11 THE COURT: The issue are these documents that you
12 and I've just discussed, and you say you have none.

13 MR. MERCER: I have none, yes, for 1992.

14 THE COURT: 1992. Do you have any records for any
15 other year?

16 MR. MERCER: I have -- I just don't keep records. I
17 have not got a letter from the Secretary instructing me which
18 records to keep.

19 THE COURT: Well, the issue is whether you have any
20 records.

21 MR. MERCER: I do not keep records.

22 THE COURT: All right. You have no records?

23 MR. MERCER: No.

24 THE COURT: All right.

25 MR. MERCER: I have not been instructed which records

1 to keep.

2 THE COURT: Now, I noticed that reading through the
3 transcript of the proceedings that you had with the IRS, have
4 you read through those, that transcript?

5 MR. MERCER: Yes, I did.

6 THE COURT: Now, do you -- you also recorded the
7 proceedings.

8 MR. MERCER: Yes, I did.

9 THE COURT: Now, did your transcript of the
10 proceedings correspond --

11 MR. MERCER: It's fairly close.

12 THE COURT: -- that I have before me a copy.

13 MR. MERCER: They've made a few omissions.

14 THE COURT: Was there any material --

15 MR. MERCER: Nothing that's really important that I
16 can see.

17 THE COURT: Now, you say there was a mention here of
18 printing business, Mercer Printing Company, Inc.

19 MR. MERCER: Yes.

20 THE COURT: Is that -- does a corporation exist?

21 MR. MERCER: No.

22 THE COURT: Did it exist in 1992?

23 MR. MERCER: No. It existed, but it did not do any
24 business.

25 THE COURT: Did you pay the franchise tax?

1 MR. MERCER: I don't think so. So, no.

2 THE COURT: Now, then, in your brief to me -- and I
3 haven't had a chance to look at the brief or the memorandum you
4 filed this morning. You understand that?

5 MR. MERCER: Yes.

6 THE COURT: But in the brief that you filed to me or
7 gave me, I think you did claim your Fifth Amendment rights; is
8 that correct?

9 MR. MERCER: Yes.

10 THE COURT: All right. Thank you.

11 Mr. Coombe, I don't know whether you want to ask the
12 witness any questions or not?

13 MR. COOMBE: I think Your Honor has been very
14 thorough in asking questions, Your Honor. No, Your Honor.

15 THE COURT: Any witness, any evidence you wish to
16 present, Mr. Coombe?

17 MR. COOMBE: In light of your holding, Your Honor,
18 about testimony being given, I don't think there's anything I
19 can put on that would change that, Your Honor.

20 THE COURT: Let the record show that the Court finds
21 that Mr. Mercer stated that he wanted to cooperate.

22 Is that correct, Mr. Mercer?

23 MR. MERCER: Yes, sir.

24 THE COURT: And that's still your position; correct?

25 MR. MERCER: Yes, sir.

1 THE COURT: That he did appear as ordered by the
2 Court on March the 8th, 1996 at 10 a.m. That's correct, isn't
3 it? That I -- that he did give testimony; that he stated at
4 the time of the hearing before the Internal Revenue officer and
5 that he has reiterated that in this court under oath that he
6 has no records, and I went through the list of records that I
7 ordered him to produce and he said that he has no records and
8 in fact he says he has kept no records.

9 Going further, he has also invoked the Fifth
10 Amendment as to certain questions that were asked at the
11 Internal Revenue hearing. It's the opinion of this Court that
12 the fact that we have a tax code does not in my opinion take
13 away our right as citizens to claim the Fifth Amendment when we
14 feel that they will be -- when we will be incriminated by the
15 statements that we give. The fact that we take the Fifth
16 Amendment can be used to infer that the individual claiming the
17 Fifth has affirmed or agreed that there were in this case
18 records, and the Court could then infer that the defendant
19 failed to bring those records and that would be the basis to
20 hold the defendant in contempt.

21 In this case I have placed the defendant under oath,
22 I have specifically asked him whether he had these records. He
23 has specifically denied that he has these records and that he
24 has no records. And in view of the state of the situation at
25 this time, I dismiss the show cause or the contempt order

1 against him and I find that he has answered those questions
2 under oath and that according to his testimony under oath he
3 has no records.

4 Now, Mr. Mercer, have I said something that is not
5 true?

6 MR. MERCER: No.

7 THE COURT: Mr. Coombe, I've tried to make the record
8 as clear and as concise as I can be on this particular issue.

9 MR. COOMBE: For the sake of the record, Your Honor,
10 no disrespect to the Court, the United States notes its
11 objection to the finding that the testimony was given for the
12 sake of the record, Your Honor.

13 Thank you.

14 THE COURT: Do you wish to argue that point at all
15 any further other than what you have?

16 MR. COOMBE: I wouldn't want to take any more of the
17 Court's time. I don't think I can convince you, Your Honor.

18 THE COURT: This case is dismissed. Thank you.

19 Mr. Mercer, you have so many days to appeal according
20 to the rules.

21 Mr. Coombe, I'm sure you're aware that you can appeal
22 the case.

23 MR. COOMBE: Absolutely, Your Honor.

24 (Proceedings concluded at 10:28 a.m.)

25 - - -

C E R T I F I C A T E

I, Julie A. Wolfer, the undersigned, do hereby
certify that the foregoing is a correct transcript
from the record of the proceedings in the above-entitled
matter.

Julie A. Wolfer
Julie A. Wolfer, RPR, RMR
Official Reporter

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PAYMENT DUE UPON RECEIPT OF INVOICE

I N V O I C E

Julie A. Wolfer Transcripts
Room 801, Potter Stewart U.S. Courthouse
100 E. Fifth Street
Cincinnati, Ohio 45202
(513) 564-7600
Taxpayer I.D. Number 31-1197897

TO: William J. Mercer
10133 Breezy Lane
Cincinnati, Ohio 45241

June 27, 1996
INVOICE NO. 96047

RE: United States of America vs. William J. Mercer

Civil No. C-1-95-461

Transcript ordered by: William J. Mercer

Proceedings before the Honorable Herman J. Weber, Judge,
in the United States District Court for the Southern
District of Ohio, Western Division.

Transcript of:

Proceedings held Thursday, May 30, 1996.

15 pages at \$3.00 per page \$45.00
(original)

TOTAL AMOUNT DUE \$45.00

PAID
Jan 6-27-96

*Received \$50.00
- 5.00 check
45.00 paid*

IRS Hearings to Produce Books and Records

- A. We reduced the pages of this 64-page transcript to 17 pages. We wanted to make sure you had this complete transcript to study.
- B. Every hearing is somewhat different. There are so many factors that come into play that the out come cannot always be determined so you have to be on your toes.
- C. Remember this is a Summons hearing not a Collection Due Process hearing don't confuse the two.
- D. Go to page 12 line 8 talking about IRS form 8821.
 - 1. Form 8821 only pertains to a 1040 so we never filled it out, nor would you.
- E. This transcript brings up a number of important points that we feel you might learn from.
- F. Everything that was put into the record came from IRS manuals, United States Code, or the Code of Federal Regulations.
- G. As you review this you will realize how many hours Ms. Page, Mr. Seal and a number of other IRS employees had to spend trying to overcome our hero's defense of his rights.
 - 1. The IRS started out pushing a snowball around and wound up with a AVALANCHE coming at them that they were illpreapred to handle.
- H. Go to page 28 of the transcript lines 5-16 where Ms. Page talks about IRC section 7602
 - 1. Go to Exhibit A at the end of the transcript that shows a breakdown of a 2039 Summons under title 26 sections 7602(c)(1).
 - 2. We put this chart together in 1999 and have used it in a number of situations.
 - 3. To our knowledge, this chart has never been rebutted:
 - a. However, you have to know how to properly use it and when to use it.

4. This chart takes you through 7602(c)(1) to the 4101, Registration and bond required by secretary to register under 4041, 4081, and 4091.
5. Now are you a part any of these entities?
 - a. Then why is the IRS trying to enforce this Summons against you if you are not in any of these categories?
- I. Go to page 48 of the transcript lines 23-25 and page 49.
 1. After all of this Ms. Page still didn't get any books and records.
 2. Ms. Page just can't seem to understand that she did not have the proper Delegation of Authority orders to go with her Pocket Commission to look at our Hero's books and records even if our Hero had those records.
- J. Page 50 of the transcript our Hero simply tells the IRS agents that the meeting is being moved to another location.
 1. As you read on to the end you will learn how to put your exhibits in the record.
- K. We have a vast number of these types of transcripts where we have helped others with their problems.
 1. We have seen those who have tried to do these types of hearings on their own and failed for lack of knowledge. Or they had a "Joe Patriot" who used off point arguments.
 2. These hearings are very important and how you handle them is very important to your success down the road.
 3. The transcript you create will be invaluable to you in any other dealings with the IRS that's why it is so important that you get it as correct as possible.
- L. If you have to have some type of an IRS hearing call us and we can guide you through the process of entering credible, substantive evidence into the record. Procedure is a wonderful thing. Effective use of the truth and procedure to defend your rights can lead to most favorable results.

IRS Hearing to
Produce Books
and Records
Conducted in
Portland, Oregon
Friday
October 13,
2000

IN THE MATTER OF
THE INTERNAL REVENUE SERVICE

and

[Redacted]

VERBATIM REPORT OF PROCEEDING

October 13, 2000

1220 S.W. Third Avenue

[Redacted]

Portland, Oregon

[Redacted]
Court Reporter

No.	Reference	Page
1	No. 14 26 USC Sec. 7804	4
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APPEARANCES:

For the IRS: MR. MICHAEL SEAL
MS. MARILYN PAGE
1220 S.W. Third Avenue
Portland, OR 97204

For [Redacted] MS [Redacted]
[Redacted]
[Redacted]

Also Present: Mr [Redacted]

EXHIBITS

12	No. 1 26 CFR Ch.1 (4-1-99 Edition)	4
13	No. 2 Samples of Authorized ID Cards	4
14	No. 2A Untitled Document	4
15	No. 3 31 USC Chapter 3	4
16	No. 4 27 CFR Ch.1 (4-1-99 Edition)	4
17	No. 5 31 USC (d)(2)	4
18	No. 6 (Omitted)	
19	No. 7 48 USC Sec. 1402	4
20	No. 8 26 CFR Ch.1 (4-1-99 Edition)	4
21	No. 9 (Omitted)	
22	No. 10 Treasury Order 120-01	4
23	No. 11 26 CFR Ch.1 (4-1-99 Edition)	4
24	No. 12 26 USC Sec. 7654	4
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PORTLAND, OREGON; FRIDAY, OCTOBER 13, 2000
9:10 a.m.

(Deposition Exhibits Nos. 1 through 23 were
marked for identification.)

* * *

MS. [Redacted] You can swear me in, if you'd
like.

MS. PAGE: I'll begin by stating why we are
all here.

MS. [Redacted] Well, wait a minute. We -- you
can't -- you're not going to be able to say much of
anything until you're sworn under -- in on the record,
and if you won't be sworn in, then we have a little
bit of a challenge here.

MR. SEAL: I think we have a real challenge
here. My name's Michael Seal. I'm the group manag
with IRS. If everybody could identify themselves
first I would appreciate it, and then I'll -- I'll
answer your questions.

MS. [Redacted] Everybody has been identified
for the record already.

MR. SEAL: Not -- not on this record, not on
this tape.

MS. PAGE: Not on the audio recording.

MS. [Redacted] I'm [Redacted], and I'm the

1 person that has received a letter from the IRS as an
 2 alleged taxpayer. That's why I'm here.
 3 MR. [REDACTED] spouse.
 4 [REDACTED] STANDRING [REDACTED] Standring.
 5 MS. PAGE: Could you spell that again for
 6 me, please?
 7 [REDACTED] STANDRING: S-T-A-N-D-R-I-N-G.
 8 MS. PAGE: My name is Marilyn Page. I'm a
 9 Revenue Agent with Internal Revenue Service. My
 10 employer identification number is 91-06704.
 11 MR. SEAL: And my name is Michael Seal. I'm
 12 a group manager with IRS
 13 You must have that memorized, Marilyn.
 14 MS. PAGE: 91-06702.
 15 MR. SEAL: 91-06702.
 16 [REDACTED] May I see your badge?
 17 MR. SEAL: Yeah.
 18 [REDACTED] I would like to note for the
 19 record that Mr. Seal's badge has a blue background
 20 behind his picture surrounded by white, and there's no
 21 security clearance authorization in the lower
 22 right-hand corner of his seal.
 23 And Marilyn Page's number, I forget if you
 24 read it, it was 91-06704; also has a blue background,
 25 white surrounding the picture and then no security

1 have on that, but we're certainly unaware of it.
 2 [REDACTED] Okay. 26 United States Code,
 3 Section 7804 prohibits any IRS employee from making
 4 false statement under oath and for violating any civil
 5 right established under The Constitution of the United
 6 States of any alleged taxpayer, and you are alleging
 7 I'm a taxpayer; is that correct?
 8 MS. PAGE: That's correct.
 9 MR. SEAL: I -- I think you -- I think most
 10 everybody here is a taxpayer.
 11 [REDACTED] In order to protect all my
 12 rights, I must insist that any IRS employee that wants
 13 to speak with me must first be put under oath.
 14 MR. SEAL: Can't do it.
 15 [REDACTED] I don't know what you're going
 16 to do then.
 17 MR. SEAL: Then we're going to terminate the
 18 meeting.
 19 [REDACTED] Well, you can't terminate the
 20 meeting.
 21 MR. SEAL: Certainly I can.
 22 [REDACTED] Only I can terminate the
 23 meeting. You do not have authority to terminate the
 24 meeting.
 25 MR. SEAL: If -- if you're going to be

1 clearance in the lower left-hand corner.
 2 MR. SEAL: Okay. And your name?
 3 THE COURT REPORTER: [REDACTED]
 4 court reporter.
 5 MR. SEAL: Okay. Thank you. Could I get a
 6 card?
 7 THE COURT REPORTER: Oh, yeah, sure.
 8 MR. SEAL: Thank you.
 9 THE COURT REPORTER: Do you want one, too,
 10 Marilyn?
 11 MS. PAGE: Please.
 12 MR. SEAL: Okay. Before we get started, I
 13 would ask that your witnesses complete the form 8821
 14 so that we could proceed with this meeting and any
 15 federal income disclosures would be authorized by you,
 16 by your signature.
 17 [REDACTED] Okay. First of all, I'm -- I'm
 18 not going to sign this form because you're not going
 19 to take an oath; is that correct?
 20 MR. SEAL: No. There is no requirement
 21 anywhere in either the code, regulations or our manual
 22 that requires IRS agents or supervisors to swear
 23 during an interview when we are asking you interview
 24 questions regarding your federal tax situations.
 25 You're welcome to provide me with any information you

1 obstructive and not cooperate, not authorize the
 2 disclosures and if you're going to try to require IRS
 3 officers to swear during this meeting, then I'm going
 4 to terminate it.
 5 [REDACTED] You -- you are not authorized
 6 by law, by your own law --
 7 MR. SEAL: So we're going to ask you for --
 8 [REDACTED] -- to terminate this meeting.
 9 MR. SEAL: We're going to ask you for your
 10 cooperation.
 11 [REDACTED] Only I can terminate this
 12 meeting.
 13 MR. SEAL: Marilyn --
 14 MS. PAGE: I wonder if I might backtrack --
 15 THE COURT REPORTER: One at a time, please.
 16 [REDACTED] Mr. Seal, you're being kind of
 17 aggressive with me, and I wish you would just conduct
 18 this meeting in an orderly fashion.
 19 MR. SEAL: No, I'm not.
 20 MS. PAGE: I wonder if I could just
 21 backtrack on 7804.
 22 [REDACTED] Uh-huh.
 23 MS. PAGE: My hearing of that, and I haven't
 24 committed the code to memory, as you might imagine,
 25 was the prohibition against making false statements

1 under oath.
 2 [REDACTED] That's right. That's right.
 3 MS. PAGE: Okay, but what we were trying to
 4 get at was something that required us to take the
 5 oath.
 6 [REDACTED] Right. And the reason I want
 7 you to take the oath is because I'd like to get to the
 8 bottom of this which is what I thought we were here to
 9 do today --
 10 MS. PAGE: Uh-huh.
 11 [REDACTED] -- and if -- if I'm going to be
 12 asking you questions like, you know, what is your
 13 authority to look at my books and records, then I'm
 14 going to need those answers to be truthful, and that's
 15 why I want you to take the oath.
 16 MS. PAGE: Well, I think there's a
 17 presumption that -- that it must -- that taking the
 18 oath will secure a truthful statement, and -- and I'm
 19 not --
 20 [REDACTED] Well, yeah.
 21 MS. PAGE: -- hearing in that that there's a
 22 requirement for -- for the oath to be taken, and I
 23 agree with Mr. Seal that we wouldn't be able to
 24 proceed under those circumstances.
 25 [REDACTED] Well, the problem is is that

1 here with a security clearance, which we have --
 2 [REDACTED] Then we'd have something to
 3 talk about.
 4 MR. SEAL: -- then what would you do?
 5 [REDACTED] Then we would have something to
 6 talk about.
 7 MR. SEAL: Will you answer our questions?
 8 [REDACTED] We have something to talk about
 9 then.
 10 MR. SEAL: Okay.
 11 MS. PAGE: I wonder if you would maybe take
 12 a moment to read what's on that commission, maybe that
 13 would provide --
 14 [REDACTED] If there's no security
 15 clearance on your identification tag then you don't
 16 have clearance.
 17 MS. PAGE: What -- what do you view as a
 18 security clearance?
 19 [REDACTED] It's not what I view, it's what
 20 your manual says you need to have in order to look at
 21 my books and records.
 22 MS. PAGE: Well, that's exactly what this
 23 says.
 24 MR. SEAL: Okay. I'm not going to entertain
 25 this any further. If you could go ahead and have your

1 you're -- your ID cards do not give you authorization
 2 to enter any kind of secured area, and looking at my
 3 books and records is one of those areas.
 4 MR. SEAL: Okay.
 5 [REDACTED] So then we need to get someone
 6 in here with authorization.
 7 MR. SEAL: Aren't -- aren't we sitting in an
 8 IRS office right now?
 9 [REDACTED] I don't know. Are we?
 10 MR. SEAL: Didn't we show you our
 11 identification?
 12 [REDACTED] Yeah, and your identification
 13 tells me that you don't have clearance.
 14 MR. SEAL: Okay. And here also -- here also
 15 is -- is my commission which commissions me.
 16 [REDACTED] I don't see any clearance on
 17 that either.
 18 MR. SEAL: Okay. So really what you're
 19 doing is you're just going to be frivolous.
 20 [REDACTED] Absolutely not. What I'm doing
 21 is I'm asking you to follow the law.
 22 MR. SEAL: So what would you want?
 23 [REDACTED] I want somebody in here with a
 24 security clearance.
 25 MR. SEAL: Okay. And if we had somebody in

1 witnesses fill out the disclosure statements and sign
 2 them because we have some questions that we would like
 3 to ask you.
 4 [REDACTED] Uh-huh.
 5 MR. SEAL: Okay?
 6 [REDACTED] Have my witnesses fill out the
 7 disclosure statement?
 8 MR. SEAL: Yes, it's 8821. Tax information
 9 authorization requires -- they would input their name,
 10 address, Social Security number and then you would
 11 indicate the years that you're mak -- you're
 12 authorizing the disclosure and then you would sign it.
 13 [REDACTED] You want the witnesses to put
 14 their names and Social Security numbers?
 15 MR. SEAL: Well, you can fill it out or they
 16 can fill it out and you can sign it. Take your
 17 choice.
 18 [REDACTED] Well, I can't fill it out for
 19 them. You can ask them if they're willing to fill it
 20 out.
 21 MS. PAGE: Are you willing --
 22 MR. SEAL: The question is are you willing
 23 to -- to authorize them. That's the question.
 24 [REDACTED] Am I willing to authorize them
 25 to hear anything you have to say about me?

1 MR SEAL: Yeah.
 2 [REDACTED] Oh, sure. That's why they're
 3 here.
 4 MR SEAL: Okay. Then we should go forward.
 5 MS. PAGE: We presume that you are, and --
 6 and we'd like to proceed, and we'd simply like that
 7 presumption in writing so that we can proceed so that
 8 we can have that for our record that you --
 9 [REDACTED] You have it on the record. I
 10 just said that you have my authorization for them to
 11 hear anything that's said.
 12 MS. PAGE: Do you mind having them fill it
 13 out?
 14 Does anyone here mind filling one out?
 15 [REDACTED] I'm not going to fill one out.
 16 [REDACTED] I do. If you're not -- if
 17 you're not going to go under oath to testify that
 18 you're telling the truth, I'm not going to provide
 19 anything. Why should I provide something to you if
 20 you're not willing to uphold the law and do your
 21 portion? Your portion says you cannot lie. Well, go
 22 under oath and do it. Attest to it.
 23 MS. PAGE: My commission --
 24 [REDACTED] Swear under oath that you will.
 25 MS. PAGE: My commission prevents me from

1 MR SEAL: Because it's not within our
 2 procedures, and it's not required.
 3 MS. PAGE: It's not -- we have a manual, as
 4 you well know, that regulates what we do. Securing
 5 these forms is one of the things that we're required
 6 to do to proceed to prevent unauthorized disclosures.
 7 Another thing that we are required to do is follow our
 8 procedures with regard to taking oaths.
 9 Now, when we are under oath in a court of
 10 law, when we are summoned as expert witnesses, that
 11 is -- that is when that section applies. If we are
 12 put under oath, we're not -- we must tell the truth.
 13 At all other times we must tell the truth just as a
 14 matter of common practical sense.
 15 However, the section that you're referring
 16 to doesn't require it, and that's why we're not doing
 17 it. That's why we can't do it. I don't see that that
 18 should prevent us from proceeding. I would like us
 19 all -- as you say, the purpose of our being here is to
 20 get to the bottom of all of this, and I would like
 21 to -- to not see this hold us up. I would like to get
 22 there.
 23 [REDACTED] Pastor, are you willing to sign
 24 that?
 25 MR. SEAL: He doesn't have to sign it. You

1 lying in the carrying out of my duties. That's --
 2 [REDACTED] No, it doesn't.
 3 MS. PAGE: I'm not able to do that.
 4 [REDACTED] It does not.
 5 MS. PAGE: Okay. Basically --
 6 MR. SEAL: What that -- what that particular
 7 section is is if you are put under oath you will not
 8 lie, but we're not in a position where we're required
 9 to be put under oath. What we're here is to conduct
 10 an interview at this time.
 11 [REDACTED] Well, are you going to tell the
 12 truth? Yeah?
 13 MR. SEAL: And we're asking for written
 14 authorizations --
 15 [REDACTED] Then why not?
 16 MR. SEAL: -- and once we receive that, we
 17 will proceed. Okay?
 18 MS. PAGE: Everyone here --
 19 [REDACTED] Well, my question is, though,
 20 if you're going to tell the truth, and Marilyn says
 21 she's going to tell the truth, are you going to tell
 22 the truth?
 23 MR. SEAL: Of course.
 24 [REDACTED] Okay. Then what's the harm
 25 being put under oath?

1 have to sign it.
 2 [REDACTED] Are you willing to put in your
 3 information?
 4 [REDACTED]: Where do you put the --
 5 where do you put the information at on the form?
 6 MS. PAGE: Under the taxpayer information,
 7 Number 1, and you all might -- might want to take a
 8 look here, and if you want us to go off the record to
 9 give you a chance to fill this out, if you agree to
 10 that, we can.
 11 The taxpayer would -- would be the
 12 individual whose -- whose records we're looking at.
 13 The appointee would be yourself. The taxpayer is
 14 appointing you to be authorized to receive this
 15 information that will be heard here today. The tax
 16 matters are the type of tax, income tax for the form
 17 1040 for the -- and we'll specify the years or
 18 periods. I'm not going to -- to make this information
 19 a part of the record right now until I have
 20 [REDACTED] authority to do that. So I'm -- I'm
 21 guiding you on the completion of this form.
 22 Is that clear to -- do you have any
 23 questions about how to complete the form? I'm -- I'm
 24 trying to guide you without actually giving the
 25 information that I'm not authorized to give without

1 her consent. Is that clear or do you have questions?
 2 [REDACTED] If -- if what you're saying is
 3 true, you're -- you're saying you're going to put this
 4 on the record.
 5 MR. SEAL: It is on the record.
 6 [REDACTED] But then, you know, the only
 7 thing that's any good in court is when you have
 8 something sustainable in court, and if I have you
 9 under oath and on a record that can be used in court,
 10 then that means that I have you under oath, sworn in
 11 that you're going to tell the truth.
 12 MS. PAGE: Right.
 13 MR. SEAL: You know --
 14 [REDACTED] And why are you so unwilling to
 15 stand up and take an oath to swear because this is the
 16 only thing we can use in court --
 17 MR. SEAL: I'll discuss this further --
 18 [REDACTED] -- if you violate our rights?
 19 MR. SEAL: I'll discuss this further as soon
 20 as we've completed the authorizations.
 21 [REDACTED] No.
 22 [REDACTED] Okay. There's a --
 23 [REDACTED] Take that oath.
 24 [REDACTED] Okay. There's another
 25 complication here. On your tax information

1 MR. SEAL: Okay.
 2 [REDACTED] So I really -- I can't be
 3 answering your questions.
 4 MR. SEAL: Do -- would you like to respond
 5 to that question?
 6 [REDACTED] No, I don't want to respond to
 7 that question.
 8 MR. SEAL: Okay. Have you had any taxable
 9 income?
 10 [REDACTED] No.
 11 MR. SEAL: Have you had any gross income?
 12 [REDACTED] No, I have not.
 13 MR. SEAL: Are you employed?
 14 [REDACTED] No, I am not.
 15 MR. SEAL: Have you no profession?
 16 [REDACTED] Now, I'm -- I'm done --
 17 [REDACTED] Are you fishing?
 18 [REDACTED] -- answering your questions --
 19 MR. SEAL: Uh-huh.
 20 [REDACTED] -- because you are not
 21 authorized to ans -- ask me questions --
 22 MR. SEAL: Uh-huh.
 23 [REDACTED] And I've just done you the
 24 courtesy of answering a few.
 25 MR. SEAL: Uh-huh.

1 authorization form it -- it says taxpayer name and
 2 address, please type or print. I object to being
 3 referred to as a taxpayer.
 4 MR. SEAL: Uh-huh.
 5 [REDACTED] A taxpayer is defined in the
 6 code as a person who has established or seeks to
 7 establish a construction reserve fund under the
 8 provisions of 511 of the Act and the regulations of
 9 this part and may include a partnership, and that's
 10 under 26 CFR 2.1-1.
 11 MR. SEAL: So you're not a taxpayer?
 12 [REDACTED] I don't fit into that category.
 13 MR. SEAL: Are you a U.S. citizen? Are you
 14 a United States citizen?
 15 [REDACTED] Now, see, you're not -- you're
 16 not authorized to ask me questions.
 17 MR. SEAL: I just asked you a question,
 18 I'm -- I'm asking.
 19 [REDACTED] I know, and you're not
 20 authorized to ask me those questions.
 21 MR. SEAL: Why not? Why not?
 22 [REDACTED] Because you don't have the
 23 clearance to ask me those questions.
 24 MR. SEAL: Really?
 25 [REDACTED] Yes.

1 [REDACTED] All right.
 2 MR. SEAL: Do you have any bank accounts?
 3 [REDACTED] I don't know how we can
 4 proceed.
 5 MS. PAGE: Okay. How can -- how can we get
 6 to -- to a -- a point where we can continue in here?
 7 [REDACTED] If you'll -- you'll go under
 8 oath and -- and I can't sign this form. See, that's
 9 the problem, can't sign this form. I want my
 10 witnesses here, and if you'll go under oath then I'll
 11 be happy to proceed.
 12 MS. PAGE: Okay. We can't go under oath,
 13 but we do want to proceed. You feel that you can't
 14 fill this out?
 15 [REDACTED] Right.
 16 MR. SEAL: Why?
 17 MS. PAGE: But you want to proceed.
 18 [REDACTED] I already answered that
 19 question.
 20 MS. PAGE: So I'm -- I'm trying to get to a
 21 way that we can proceed with questions.
 22 MR. SEAL: Hang on. Hang on a second,
 23 Marilyn.
 24 MS. PAGE: Okay.
 25 MR. SEAL: You're an attorney; is that

1 correct?
 2 [REDACTED] I'm not going to answer any
 3 more questions.
 4 MR. SEAL: You're not?
 5 [REDACTED] No, I'm not going to answer any
 6 more questions.
 7 MR. SEAL: Okay. Well, then I guess we
 8 can't go any further, either your witnesses --
 9 [REDACTED] Well, you could get somebody in
 10 here who's authorized to ask me questions.
 11 MR. SEAL: We are. We've showed you our
 12 official ID. We've showed you our commission.
 13 [REDACTED]: I've looked at your official
 14 ID --
 15 MR. SEAL: We're sitting in an IRS office
 16 right now --
 17 [REDACTED]: Your official ID does not --
 18 MR. SEAL: -- on the seventh floor.
 19 [REDACTED]: -- give you authorization to
 20 enter secured areas. This is a secured area.
 21 MS. PAGE: Could you -- would you mind just
 22 taking a look at this, and I'll hold it in front of
 23 you so that you could possibly read it aloud? And
 24 this is my name, Marilyn Page.
 25 [REDACTED]: Uh-huh.

1 what you saw, what we showed you as identification,
 2 allows us to enter and exit this building.
 3 [REDACTED] If you had --
 4 MS. PAGE: It does not allow us to examine
 5 books and records.
 6 [REDACTED] Okay.
 7 MS. PAGE: It's the commission.
 8 [REDACTED] There you go.
 9 MS. PAGE: It's the commission that we
 10 carry.
 11 MR. SEAL: We showed you our commission.
 12 [REDACTED] No. If your commission allowed
 13 you to examine my books and records, then you would
 14 have an ID card with a yellow background --
 15 MR. SEAL: No. I think you're confused.
 16 [REDACTED] -- and authorization.
 17 MR. SEAL: This is our -- this is our
 18 commission. This is what authorizes us to examine
 19 books and records, to summons, to take oaths.
 20 [REDACTED] No. According to your book,
 21 it's this.
 22 MR. SEAL: This is just a building pass.
 23 That's all this is.
 24 MS. PAGE: You're right. You should not
 25 give information to someone who merely shows you

1 MS. PAGE: And would you mind reading the
 2 rest of that for us so that we can all hear it. And
 3 if you'd read it aloud, that would be helpful.
 4 [REDACTED] You -- you can and go ahead and
 5 read it into the record if you'd like.
 6 MS. PAGE: Okay. The commission says that I
 7 am Marilyn Page, and I have signed this. And it says,
 8 Whose signature and picture appear above is duly
 9 commissioned as a Revenue Agent and has the authority
 10 to perform all duties conferred upon such officers
 11 under all laws and regulations administered by the
 12 Internal Revenue Service including the authority to
 13 investigate and to require and receive information as
 14 to all matters relating to such laws and regulations.
 15 This is signed by the commissioner of Internal Revenue
 16 Service on the 4th of -- the 22nd of April of 1996.
 17 [REDACTED] Okay. And I would like to
 18 admit into the -- onto the record my Exhibit 2 which
 19 is from the Internal Revenue manual that shows samples
 20 of ID authorization cards, and it shows that the white
 21 card with the blue background, which is the card that
 22 both of these revenue agents have here today, is not
 23 authorized to enter any secured area or any restricted
 24 area.
 25 MS. PAGE: And that -- yes. And what you --

1 this. You should request a commission, and that's
 2 what we've shown you here.
 3 [REDACTED] This right here says that
 4 you're authorized to access a restricted area if you
 5 have one of these numbers or letters in the lower
 6 left -- lower right-hand corner of your badge. You do
 7 not have those.
 8 MS. PAGE: And -- and I'm afraid we're
 9 not -- I'm afraid we're not going to get anywhere
 10 because then the next -- the next challenge here would
 11 be to -- would be to categorize your books and records
 12 in one of these secured areas, and -- and that's a
 13 connection I don't think -- I think will be even more
 14 challenging than this one.
 15 I think if we're going to proceed with this
 16 examination -- I have some questions to ask here. I
 17 will allow that Tracie and Mr. -- [REDACTED]
 18 and Mr. [REDACTED] and [REDACTED] and [REDACTED]
 19 are here for the purposes of conducting an audit. I
 20 have some questions to ask. I am authorized to review
 21 your books and records by the Internal Revenue Code,
 22 and pursuant to the examination of your income for the
 23 years 1995 through 1999 I have -- I would like to
 24 conduct an interview, and I would like to ask you if,
 25 as you've told me on the phone when I asked you would

1 you be presenting books and records, and you said that
 2 you would.
 3 [REDACTED] You asked if I would bring
 4 them. You didn't ask me if I'd present them.
 5 MS. PAGE: Did you bring books and records
 6 of --
 7 [REDACTED] Yes, I did.
 8 MS. PAGE: -- your income through --
 9 [REDACTED] I brought books and records.
 10 MS. PAGE: It's my job, first of all, to
 11 interview you to get background on your taxable
 12 situation for the years '95 through '99; and,
 13 secondly, to examine books and records in such a
 14 manner as -- as necessary for me to determine what
 15 that income and expense was. This is stated in --
 16 and -- and I believe that you sent -- that you were
 17 sent these. I -- I have copies for you about the
 18 examination process.
 19 [REDACTED] I have those.
 20 MS. PAGE: You do have those?
 21 MR. SEAL: Okay. Do you understand that you
 22 have the right to an attorney or a CPA or an enrolled
 23 agent --
 24 [REDACTED] Yes, I understand that.
 25 THE COURT REPORTER: Or a -- or a who? CPA

1 aren't under oath, and you're still not authorized so
 2 how are we going to move any further?
 3 MS. PAGE: Well, I mean, can we all agree
 4 that we're here and --
 5 [REDACTED] We're here.
 6 MS. PAGE: -- and that it's Friday, the 13th
 7 of October, and the year 2000. It's about ten o'clock
 8 in the morning, and we're here because I sent you a
 9 letter about the filing of these returns, and -- and
 10 that is the purpose of -- of our meeting here.
 11 Have you filed income returns for those
 12 years?
 13 [REDACTED] I can't -- I -- I cannot answer
 14 any of your questions any further.
 15 MS. PAGE: Do you have --
 16 [REDACTED] First of all, you haven't
 17 crossed the threshold of being in a position to ask me
 18 these questions --
 19 MS. PAGE: Do you understand --
 20 [REDACTED] -- so how can I answer any of
 21 your questions?
 22 MS. PAGE: Yeah. Well, I'm -- I'm not sure
 23 I -- I appreciate your -- your position when I have
 24 shown you my authority to -- to ask these questions.
 25 I -- I can provide you with some law. I -- I think

1 or --
 2 MR. SEAL: -- enrolled agent to represent
 3 you.
 4 [REDACTED] Let me ask you, should you
 5 proceed with this audit, are you going to be relying
 6 on the income tax laws or the Internal Revenue laws?
 7 MS. PAGE: I'll be relying on the Internal
 8 Revenue Code that is Title 26 --
 9 [REDACTED] Would you be calling out the
 10 Internal Revenue laws or the income tax laws?
 11 MS. PAGE: I would call those income
 12 statutes as stated in the -- the Internal -- I would
 13 call it the Interval Revenue Code
 14 MR. SEAL: Title 26.
 15 MS. PAGE: Title 26.
 16 [REDACTED] So would that be the Internal
 17 Revenues or the income tax laws?
 18 MS. PAGE: That is the Internal Revenue
 19 Code. It's the Internal Revenue Code.
 20 MR. SEAL: It's Title 26 It's United
 21 States law.
 22 MR. SEAL: Did you have some questions?
 23 MS. PAGE: Yeah, I do.
 24 [REDACTED] Well, I really -- I can't
 25 proceed further until I have -- well, you guys still

1 that it's something that you're familiar with, but --
 2 what gives me the authority to ask the questions and
 3 what gives me the authority to examine the books and
 4 record.
 5 Section 7602 regards the examination of
 6 books and witnesses, and this addresses our authority,
 7 my authority to summons information. I -- we -- we
 8 try to get as much information from the taxpayer, from
 9 the individual who is under examination as we can.
 10 Failing that, if we're not able to obtain
 11 records from the taxpayer, our next step is to
 12 summons. Section 7602 outlines our -- not only our
 13 authority to summon but our authority to examine
 14 books, records or any other data that's relevant to
 15 your income tax liability, so -- and I have a copy for
 16 you if -- if you would like that.
 17 [REDACTED] Tell me, is the Internal
 18 Revenue Service a function of the Department of the
 19 Treasury?
 20 MS. PAGE: We come under treasury, yes.
 21 Administratively that's -- that's the category under
 22 which we fall.
 23 So having said that, I would -- I -- I
 24 appreciate that you have brought records today. I --
 25 I would further appreciate it if you would leave them

1 with us to examine or -- or participate in a dialogue
 2 that can give us background as to -- so that if we
 3 need to summons records under Section 7602 we will
 4 have information from you that is helpful in analyzing
 5 that information.
 6 [REDACTED] Well, in order to do a thorough
 7 examination of all of my books and records, I'm going
 8 to need some money from you up front in order to get
 9 it all together and do a complete review of what I
 10 have, and I can't entrust you with the originals of
 11 anything because, you know, there's been billions
 12 spent to revamp your system and it was a complete
 13 failure and so I can't really trust you guys with
 14 originals, but I'd be happy to go through everything
 15 that I have. They're in different locations. I have
 16 some records in Ogden, you know. I have some records
 17 in Seattle. I have some records in Portland, just
 18 they're all over the place.
 19 MS. PAGE: These records --
 20 MR. SEAL: Did you -- excuse me, Marilyn.
 21 [REDACTED] And so -- so I'm going to
 22 need --
 23 MR. SEAL: Did you bring any records with
 24 you?
 25 [REDACTED] Yes, I did.

1 don't have it.
 2 MS. PAGE: Excuse me.
 3 MR. SEAL: Excuse me, sir. You're here --
 4 you're here as a witness, and if you interrupt any
 5 further, I'm going to ask that you be excluded, and I
 6 will have you excluded. Okay?
 7 All right. Let's go back. I had a question
 8 before, but you -- you are an attorney. Have you ever
 9 represented anybody in tax court or district court?
 10 [REDACTED] You're making assumptions, and
 11 I don't agree to your assumptions.
 12 MR. SEAL: -- the Oregon State Bar?
 13 THE COURT REPORTER: I didn't hear what you
 14 were saying.
 15 MR. SEAL: I had asked Marilyn if --
 16 MS. PAGE: I don't --
 17 MR. SEAL: -- if we had public records which
 18 is Oregon State Bar that she's an attorney in Oregon
 19 state; is that correct?
 20 MS. PAGE: I -- I -- I have access to
 21 that. I -- I haven't pulled the -- the record that
 22 shows you're an attorney. I have -- I was able to
 23 find that you have represented individuals in various
 24 courts in the state of Oregon and Multnomah County
 25 MR. SEAL: Which would presuppose you are an

1 MR. SEAL: Can we see them?
 2 [REDACTED] No, you may not.
 3 MR. SEAL: Okay. And why would that be?
 4 [REDACTED] What exactly is it that you
 5 want to see?
 6 MR. SEAL: Any records you have as to your
 7 income and expenses that you've brought.
 8 [REDACTED] Any records that I have as to
 9 my income and expenses I will plead the Fifth
 10 Amendment as a right to not be a witness against
 11 myself.
 12 MR. SEAL: And why would that be?
 13 [REDACTED] Because I have a right to do
 14 that.
 15 MR. SEAL: Okay. So you do have --
 16 [REDACTED] In addition --
 17 MR. SEAL: -- some concern there?
 18 [REDACTED] In addition --
 19 MR. SEAL: You do have --
 20 [REDACTED] You still haven't proven you
 21 have authority.
 22 [REDACTED] That's -- that's exactly
 23 right.
 24 [REDACTED] That's the whole crux of the
 25 matter. Until you get the security clearance, you

1 attorney.
 2 [REDACTED] Okay. Now --
 3 MR. SEAL: Where did you go to law school?
 4 [REDACTED] I'm -- I'm not -- I cannot
 5 answer that question --
 6 MR. SEAL: Okay.
 7 [REDACTED] -- because you're not
 8 authorized to ask me that question --
 9 MR. SEAL: Are you taking the Fifth
 10 Amendment?
 11 [REDACTED] -- which I've stated over and
 12 over again.
 13 MR. SEAL: Are you taking the Fifth
 14 Amendment on that question?
 15 [REDACTED] My Exhibit No. 20 is Order
 16 No. 24, Authority to Require Records to be Kept. It
 17 says, The Assistant Commissioner (International) and
 18 District Directors of Internal Revenue are hereby
 19 authorized to require any person, by notice served
 20 upon him, to keep such records as shall show whether
 21 or not such person is liable for tax under the
 22 Internal Revenue Code of 1954.
 23 This Order supersedes Delegation Order
 24 No. 24 issued February 29, 1956.
 25 It's marked Exhibit No. 20.

1 I have not received notice from the
 2 Assistant Commission (International) or the District
 3 Director of Internal Revenue to keep records.
 4 MS. PAGE: Have you kept business records?
 5 Have you kept records of your income as -- I mean, you
 6 mentioned that you have records in Seattle and records
 7 in Ogden, but the records that you need to gather,
 8 what records of income and expense have you kept
 9 personally through the years?
 10 [REDACTED] Like I said, if you want to --
 11 you know, before I can even assess all of the records
 12 that I have, I'm going to need a check from you for
 13 \$1,100 to go through all that and locate everything
 14 and get everything in one spot to assess what I have.
 15 And then when I've assessed what I have and assessed
 16 how much it's going to cost to copy all of that, I'll
 17 let you know.
 18 MR. SEAL: Oh, really?
 19 [REDACTED] Uh-huh.
 20 MR. SEAL: Okay. So essentially you will
 21 not present records unless we -- the IRS issues a
 22 check to you for \$1,100. That's what you're saying?
 23 [REDACTED] I believe I've just said what
 24 I've just said, and it's on the record.
 25 MR. SEAL: I find that somewhat incredible,

1 nothing. We have showed you our commission which
 2 authorizes us to examine taxpayers and books and
 3 records, and we showed you a building ID card.
 4 [REDACTED] I showed -- you showed me
 5 something that didn't authorize you to do anything
 6 according to your manual.
 7 MR. SEAL: And you're sitting here -- you're
 8 sitting here in an IRS office right not.
 9 [REDACTED] You're getting aggressive with
 10 me --
 11 MR. SEAL: No, I'm not.
 12 [REDACTED] -- and I wish you wouldn't be
 13 aggressive with me.
 14 MR. SEAL: I'm not being aggressive with
 15 you. You're sitting here in an IRS office right now,
 16 and it's you that is refusing to cooperate.
 17 [REDACTED] I simply want to know --
 18 MR. SEAL: If all you're doing is coming --
 19 [REDACTED] -- that you are authorized.
 20 MR. SEAL: All you're doing is making
 21 frivolous arguments and presenting nothing to us.
 22 [REDACTED] So what you're telling me is
 23 you don't need to have the law on -- behind you to be
 24 able to ask these questions?
 25 MR. SEAL: Absolutely. We've explained that

1 but thank you.
 2 MS. PAGE: Okay.
 3 MR. SEAL: Did you have any -- some
 4 questions that we need to ask?
 5 MS. PAGE: Yeah. I would like to -- I'd
 6 like to know -- Mr. -- Mr. Seal mentioned where --
 7 your -- your background and your education and your
 8 current occupation which we -- I think we all agree
 9 it's -- or all know that you are an attorney, and my
 10 question would be how long you have been an attorney
 11 and what your -- what your training in tax matters is.
 12 [REDACTED] I believe that you two are on a
 13 fishing expedition. I believe that you do not have
 14 the authority to look at my books and records, and I
 15 believe that you are not authorized to be asking me
 16 these questions.
 17 MS. PAGE: Well, we're of two different
 18 minds on that, and we -- we have shown you the
 19 authority.
 20 [REDACTED] Well, my mind is of the law.
 21 MS. PAGE: My mind is as well.
 22 [REDACTED] I showed you what your -- what
 23 your own manual says that you are not required to
 24 have.
 25 MR. SEAL: You -- you have showed us

1 to you.
 2 [REDACTED] You're saying that you can come
 3 in here and try and go through every piece of my life,
 4 doesn't matter whether I'm a taxpayer under your law
 5 or not, doesn't matter whether you have authorization
 6 or not, is that what you're saying? That is what
 7 you're saying.
 8 MS. PAGE: No, no. That is not what we're
 9 saying. We --
 10 MR. SEAL: The question was to me, Marilyn.
 11 Okay. We've given you the Internal Revenue
 12 Code. We've given -- given you your rights as a
 13 taxpayer.
 14 [REDACTED] And I've given you law to the
 15 contrary.
 16 MR. SEAL: You've indicated that you've read
 17 that. You've given us nothing. That's for an
 18 inadequate records notice. We can issue a notice
 19 requiring a taxpayer to maintain certain records, and
 20 if they don't, they can be subject to examination.
 21 [REDACTED] Looks to me like only the
 22 Assistant Commissioner (International) or the District
 23 Director of Internal Revenue can issue those notices.
 24 not you.
 25 MR. SEAL: Again, I've already explained

1 that.

2 [REDACTED] Explained what?

3 MR. SEAL: I just explained it.

4 [REDACTED] Explained what?

5 MR. SEAL: I said that particular section

6 has to do with taxpayers that are keeping inadequate

7 records or not keeping any records at all.

8 [REDACTED] Where does it say that? It

9 says authority to require records to be kept, period.

10 It doesn't say authority --

11 MR. SEAL: We're the --

12 [REDACTED] -- to require inadequate

13 records to be kept and made adequate.

14 MR. SEAL: We're the district director

15 delegate as well.

16 [REDACTED] Where's your delegation of

17 authority?

18 MR. SEAL: It doesn't appear we're getting

19 anywhere. Would you --

20 [REDACTED] Do you have your delegation of

21 authority?

22 MR. SEAL: Do we have a copy of that that we

23 can give her?

24 Would that make a difference?

25 [REDACTED] I don't know. I have to see it

1 requires that -- that we carry out the Internal

2 Revenue rules and laws.

3 [REDACTED] But you don't have that with

4 you now; is that right?

5 MR. SEAL: I think she said that.

6 You don't have a copy of it?

7 MS. PAGE: Yeah. I don't. I -- I will --

8 I'm printing a copy.

9 MR. SEAL: But, yeah. I mean, you've

10 requested that from -- from the disclosure office.

11 [REDACTED] It doesn't mean I have it. I

12 don't have it.

13 MR. SEAL: Okay.

14 MS. PAGE: We'll -- we'll make sure that you

15 get it.

16 [REDACTED] Well, I -- I need to know that

17 now. I mean, how can I know that later and just

18 proceed as if you're telling me the truth when you're

19 not even under oath?

20 MR. SEAL: Okay. So you don't want to

21 proceed unless you have a copy of the delegation

22 order?

23 [REDACTED] Well, yeah.

24 MR. SEAL: Okay.

25 MS. PAGE: It's Delegation Order No. 4, and

1 first.

2 MS. PAGE: Okay. And -- and these are

3 coming from Title 26 of the U.S. Code, and as I go

4 through -- and I do have some issues on taxable

5 income, individuals required to make returns of

6 income, a general requirement of a statement of your

7 income.

8 MR. SEAL: Didn't you request copies of

9 delegation orders from the disclosure? That -- it was

10 my understanding that is what delayed this meeting in

11 the first place. Did you receive them?

12 [REDACTED] I made several voir dire

13 requests, and I did not receive them.

14 MR. SEAL: Oh, really.

15 MS. PAGE: You received no response from the

16 disclosure office in Seattle?

17 [REDACTED] They needed more time is what I

18 kept -- I got two notices saying they needed more

19 time.

20 MR. SEAL: Okay. Well, you'll be getting

21 those, copies of the official delegations from me.

22 MS. PAGE: Yeah. And I did pull down a copy

23 of it, and I -- I will provide you with it, but I'm

24 not able to locate it right at the moment.

25 The delegation record authorizes and indeed

1 I'm afraid I do not have a copy of it with me. If --

2 if this would allow for us to proceed, I will request

3 that we recess long enough for me to provide that to

4 you. If it will not enable us to proceed, I will not

5 do that. We still have the -- it to me will not

6 overcome the -- the oath issue that we're trying to

7 get over here and --

8 [REDACTED] You're right. That won't.

9 MS. PAGE: So you're saying you would like

10 the delegation order but even if I provide it for you

11 you will not provide information?

12 [REDACTED] Well, it depends on and if

13 you -- if that's -- if it really does give you the

14 authority that's required.

15 MS. PAGE: So if it really does give us the

16 authority then you would proceed.

17 [REDACTED] Yeah. I'm -- I'm going to

18 proceed anyway. I'm going to go forward. I'm going

19 to admit all these exhibits, so maybe I should just

20 start doing that.

21 MS. PAGE: Well, why don't you just go ahead

22 and do that.

23 [REDACTED] Okay.

24 MR. SEAL: First of all, are we getting

25 copies of all that?

1 [REDACTED] Sure. You can have copies of
 2 everything.
 3 MR. SEAL: You know, I have to explain
 4 something to you. We're trying to conduct an
 5 interview.
 6 [REDACTED] I know you are.
 7 MR. SEAL: Do you understand? And we're not
 8 here to let you admit what you call exhibits. I don't
 9 know what exhibits you're -- you're talking about, but
 10 we would like to elicit your cooperation. You're an
 11 attorney. You're supposed to be trained in tax law --
 12 [REDACTED] So are you.
 13 MR. SEAL: -- and well aware of the tax law.
 14 [REDACTED] So are you.
 15 MR. SEAL: And we've explained that to you.
 16 [REDACTED] And you don't apparently know
 17 the law.
 18 MR. SEAL: I don't know what law you're
 19 talking about.
 20 [REDACTED] The Internal Revenue laws, the
 21 tax laws.
 22 MR. SEAL: We've explained our authority to
 23 do examinations. What more would you require?
 24 [REDACTED] Your ID card saying you have
 25 authority. You're telling me something that you don't

1 MS. PAGE: May I ask just a couple of
 2 questions? I -- I don't see that we're getting the
 3 information that we need. The -- the information that
 4 I need from -- from you to proceed and the records
 5 that I need to look at have to do with your
 6 employment, your self-employment, compensation that
 7 you received as an attorney.
 8 [REDACTED] I understand your needs.
 9 MS. PAGE: Okay.
 10 [REDACTED] But your needs can't be met
 11 until you show me that you're authorized and you are
 12 not authorized, neither one of you are authorized.
 13 I'm sorry that you're not authorized, but you're not.
 14 MR. SEAL: Uh-huh.
 15 MS. PAGE: In -- in the sequence of events
 16 here we have shown you one item and that, excuse me,
 17 that you reviewed.
 18 MR. SEAL: Are you okay, Marilyn?
 19 MS. PAGE: Yeah. I'm getting over a cold.
 20 That you reviewed and -- and was not
 21 satisfactory. We then showed you another item which
 22 was the commission, and I read that aloud which
 23 designated our authority under the Commission of
 24 Internal Revenue, and now we're being asked for a
 25 delegation order that --

1 have.
 2 MR. SEAL: And we've showed you a commission
 3 which is our authority, not an ID card.
 4 [REDACTED] Your commission isn't your
 5 authority. If your commission was your authority then
 6 it would note it so on your ID card, but it doesn't
 7 note that on your ID card, does it? No, it's blank,
 8 and the background is blue meaning you don't have
 9 access to restricted areas, period. That's what your
 10 manual says.
 11 MR. SEAL: Well, we certainly have access to
 12 this area, don't we?
 13 [REDACTED] My books and records --
 14 MR. SEAL: And we've showed you our
 15 identification, right?
 16 [REDACTED] -- asking me questions. That's
 17 a restricted area.
 18 MR. SEAL: And we've explained our
 19 authority.
 20 [REDACTED] You can explain anything you
 21 want, but your card doesn't back up your explanation.
 22 MR. SEAL: Really?
 23 [REDACTED] So -- and you don't go under
 24 oath, so I have to assume that you're lying to me.
 25 MR. SEAL: Uh-huh.

1 MR. SEAL: And we can furnish you a
 2 computerized copy, not a signed copy.
 3 MS. PAGE: -- we will furnish you with
 4 that.
 5 [REDACTED] I want a signed copy.
 6 MR. SEAL: Okay. You want a signed -- then
 7 you'll have to get that from disclosure.
 8 [REDACTED] Okay. Well --
 9 MS. PAGE: So the -- the questions that --
 10 that I need to address in order to complete this audit
 11 with or without assistance and cooperation from you,
 12 which is what we find to be the most effective means
 13 of conducting these audits, I need to know about your
 14 business income. I need to know about your bank
 15 records. I need to know how much income you earned
 16 how you were compensated, if you worked as an
 17 employee, if you deposited all of your income into the
 18 bank account.
 19 [REDACTED] You can stop right there
 20 because I can't answer any of those questions until
 21 you've shown me that you have authority to ask and to
 22 look at books and records.
 23 MS. PAGE: Okay. And I do need -- I -- I do
 24 need to know what business records you kept, and I
 25 need to look at those books and records and I need for

1 you to understand that --
 2 [REDACTED] I'm sure you do, but you are
 3 not authorized to do that. I'm sorry that you're not,
 4 but you're not.
 5 MS. PAGE: And then absent of cooperation
 6 or -- or your furnishing me those books and records --
 7 [REDACTED]: I can't cooperate with
 8 something that's outside the law. I have to stay
 9 within the bounds of the law, and so do you.
 10 MR. SEAL: And which law are we talking
 11 about?
 12 [REDACTED]: You said this was going to be
 13 under Title 26 and the laws related to the Internal
 14 Revenue Service.
 15 MR. SEAL: And we've given you a copy of
 16 70 -- 7602.
 17 [REDACTED]: I've showed you -- we've been
 18 around -- this has been asked and answered, and I'm
 19 not going to go through this anymore, okay? You're
 20 wasting my money and the court reporter's time and all
 21 of our time.
 22 MR. SEAL: Okay.
 23 [REDACTED]: So -- so what we're looking at
 24 here is you're not authorized, period, okay? Now I'm
 25 go to continue on with this meeting by admitting all

1 [REDACTED] Well, if you can't give me your
 2 authorization --
 3 MR. SEAL: So you're just being frivolous.
 4 [REDACTED] -- then you're not permitted to
 5 ask the questions.
 6 MR. SEAL: And, you know, I can't --
 7 [REDACTED] Would you answer these
 8 questions if I asked you all these questions? You
 9 know, how much -- how much is your income, where are
 10 your bank accounts, you know, questions like that.
 11 Would you tell me? I'm in an IRS building.
 12 MR. SEAL: You know what?
 13 [REDACTED] What?
 14 MR. SEAL: You're -- you are the taxpayer.
 15 We are the service representative.
 16 [REDACTED] I object to being referred to
 17 as a taxpayer.
 18 MR. SEAL: Okay.
 19 [REDACTED] I have previously noted that I
 20 am not a taxpayer, and I've read the definition of a
 21 taxpayer.
 22 MR. SEAL: Okay. I appreciate that.
 23 MS. PAGE: You -- you did respond to our
 24 request to come to an audit.
 25 [REDACTED]: As a courtesy, as a courtesy,

1 of these exhibits I have here.
 2 MR. SEAL: Actually, you're not. You're
 3 going to continue on.
 4 [REDACTED]: Yes, I am.
 5 MR. SEAL: No, you're not.
 6 [REDACTED]: And -- and who says?
 7 MR. SEAL: Well, because I'm going to
 8 terminate it.
 9 [REDACTED]: You can't -- you're not
 10 authorized to terminate this meeting.
 11 MR. SEAL: Well, I am going to terminate
 12 because, one thing, you're nothing but being
 13 frivolous. We've shown you our commission.
 14 [REDACTED]: The law is not frivolous.
 15 MR. SEAL: We're in an IRS building. We've
 16 shown you our IRS commission. We've explained the
 17 Internal Revenue Code. We've given you your rights as
 18 a taxpayer. You're an attorney who is well aware of
 19 the Internal Revenue Code, okay?
 20 [REDACTED]: Which is why I'm not going to
 21 answer any questions from the two of you --
 22 MR. SEAL: We've given you --
 23 [REDACTED]: Because you're not authorized,
 24 period.
 25 MR. SEAL: -- everything that we can, okay?

1 yes.
 2 MS. PAGE: And we appreciate that courtesy.
 3 I understand that you are not going to be providing
 4 books and records, is that correct, today?
 5 [REDACTED]: I understand that you're not
 6 going to be providing somebody who's authorized to
 7 look at books and records; is that correct?
 8 MS. PAGE: That's not correct. We are
 9 authorized.
 10 [REDACTED]: Okay. And we've been down the
 11 road.
 12 MS. PAGE: Right, right. So am I -- am I
 13 accurate in assuming that this meeting will conclude
 14 today without any presentation of your records of
 15 income and expense from the conduct of any trade or
 16 business for the years 1995 through 1999?
 17 [REDACTED]: If you --
 18 MS. PAGE: Is that accurate?
 19 [REDACTED]: If you are not going to present
 20 somebody with authority to look at those things, then
 21 that is correct because I can't, because I'm going to
 22 follow the law, and now I'm going to proceed.
 23 MS. PAGE: What that tells me is that
 24 we'll -- we will be ending this meeting without the
 25 books and records and that was my purpose in calling

1 you to understand that --
 2 [REDACTED] I'm sure you do, but you are
 3 not authorized to do that. I'm sorry that you're not,
 4 but you're not.
 5 MS. PAGE: And then absent of cooperation
 6 or -- or your furnishing me those books and records --
 7 [REDACTED]. I can't cooperate with
 8 something that's outside the law. I have to stay
 9 within the bounds of the law, and so do you.
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 11 about?
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 13 under Title 26 and the laws related to the Internal
 14 Revenue Service.
 15 MR. SEAL: And we've given you a copy of
 16 70 -- 7602.
 17 [REDACTED]: I've showed you -- we've been
 18 around -- this has been asked and answered, and I'm
 19 not going to go through this anymore, okay? You're
 20 wasting my money and the court reporter's time and all
 21 of our time.
 22 MR. SEAL: Okay.
 23 [REDACTED] So -- so what we're looking at
 24 here is you're not authorized, period, okay? Now I'm
 25 go to continue on with this meeting by admitting all

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 2 authorization --
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 4 [REDACTED] -- then you're not permitted to
 5 ask the questions.
 6 MR. SEAL: And, you know, I can't --
 7 [REDACTED] Would you answer these
 8 questions if I asked you all these questions? You
 9 know, how much -- how much is your income, where are
 10 your bank accounts, you know, questions like that.
 11 Would you tell me? I'm in an IRS building.
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 13 [REDACTED] What?
 14 MR. SEAL: You're -- you are the taxpayer.
 15 We are the service representative.
 16 [REDACTED] I object to being referred to
 17 as a taxpayer.
 18 MR. SEAL: Okay.
 19 [REDACTED] I have previously noted that I
 20 am not a taxpayer, and I've read the definition of a
 21 taxpayer.
 22 MR. SEAL: Okay. I appreciate that.
 23 MS. PAGE: You -- you did respond to our
 24 request to come to an audit.
 25 [REDACTED]: As a courtesy, as a courtesy,

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 3 going to continue on.
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 8 terminate it.
 9 [REDACTED]: You can't -- you're not
 10 authorized to terminate this meeting.
 11 MR. SEAL: Well, I am going to terminate
 12 because, one thing, you're nothing but being
 13 frivolous. We've shown you our commission.
 14 [REDACTED]: The law is not frivolous.
 15 MR. SEAL: We're in an IRS building. We've
 16 shown you our IRS commission. We've explained the
 17 Internal Revenue Code. We've given you your rights as
 18 a taxpayer. You're an attorney who is well aware of
 19 the Internal Revenue Code, okay?
 20 [REDACTED]: Which is why I'm not going to
 21 answer any questions from the two of you --
 22 MR. SEAL: We've given you --
 23 [REDACTED]: Because you're not authorized,
 24 period.
 25 MR. SEAL: -- everything that we can, okay?

1 yes.
 2 MS. PAGE: And we appreciate that courtesy.
 3 I understand that you are not going to be providing
 4 books and records, is that correct, today?
 5 [REDACTED]: I understand that you're not
 6 going to be providing somebody who's authorized to
 7 look at books and records; is that correct?
 8 MS. PAGE: That's not correct. We are
 9 authorized.
 10 [REDACTED]: Okay. And we've been down that
 11 road.
 12 MS. PAGE: Right, right. So am I -- am I
 13 accurate in assuming that this meeting will conclude
 14 today without any presentation of your records of
 15 income and expense from the conduct of any trade or
 16 business for the years 1995 through 1999?
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 18 MS. PAGE: Is that accurate?
 19 [REDACTED]: If you are not going to present
 20 somebody with authority to look at those things, then
 21 that is correct because I can't, because I'm going to
 22 follow the law, and now I'm going to proceed.
 23 MS. PAGE: What that tells me is that
 24 we'll -- we will be ending this meeting without the
 25 books and records and that was my purpose in calling

1 the meeting. I just showed you a copy of Section 7602
 2 which was my --
 3 [REDACTED] Well, I didn't know that you
 4 weren't authorized, Marilyn. I mean, I had to look at
 5 your tag to see if you were authorized. I -- I
 6 figured you would be authorized, but you're not. I'm
 7 sorry.

8 MS. PAGE: Okay. Well, your -- your
 9 inability to accept that authority is -- is --
 10 [REDACTED] What authority?

11 MS. PAGE: -- going to make me to -- my
 12 authority to ask the questions. It was sent to you.

13 [REDACTED] You don't have the authority.
 14 I've looked at your tag. They tell me you don't have
 15 the authority from your own manual. Now, we've gone
 16 through this already. I don't want to do it again.

17 MS. PAGE: You have apparently, you know,
 18 found some information on -- on blue and white and
 19 yellow that --

20 [REDACTED] It's in your manual. You refer
 21 to your own manual, and I'm going to --

22 MS. PAGE: But I just -- I just want to --
 23 to make sure before we conclude here that you do
 24 understand what my next step is, and that is --

25 MR. SEAL: You don't have to explain that.

1 include your books and records?
 2 [REDACTED] You'll have to come see.
 3 MR. SEAL: You're actually -- you're --
 4 [REDACTED] I'm admitting exhibits on the
 5 records.

6 MR. SEAL: Well, I tell you what. Why don't
 7 you just send us a copy of your exhibits. We'd
 8 appreciate that.

9 [REDACTED] Oh, I will definitely do that.

10 MR. SEAL: And you can go ahead and -- and
 11 finish your -- your meeting if you want to with
 12 your -- your witnesses, but then I would ask for you
 13 to leave. Okay?

14 [REDACTED] Sure.

15 MR. SEAL: And we appreciate your time and
 16 cooperation. I do find that your conduct as an
 17 attorney is incredible. I'm -- I'm quite --

18 [REDACTED] And I find that your conduct as
 19 an IRS agent is equally incredible.

20 MR. SEAL: I'm quite surprised. I'm quite
 21 surprised --

22 [REDACTED] I'm quite surprised that you
 23 don't have authority.

24 MR. SEAL: -- that an attorney could take
 25 the positions that you're taking, but, you know,

1 MS. PAGE: -- okay. That I -- that I need
 2 to determine what your -- your income and expenses
 3 are. That's my job. That's why I am here.

4 [REDACTED] Well, I don't -- I don't care
 5 what you think you're going to do next; however, I'm
 6 going -- I am going to enter the rest of these
 7 exhibits on to the record. I'm going to continue this
 8 meeting.

9 What we'll do so that we can get out of your
 10 conference room is we will go to 851 S.W. Sixth
 11 Avenue, Suite 1040 in Portland, Oregon.

12 MR. SEAL: Okay. What I would ask is that
 13 you just -- you go ahead and send us a copy.

14 [REDACTED] And this meeting will be
 15 continued in the next 20 minutes.

16 MR. SEAL: Are these books and records? Are
 17 these your books and records you're presenting or
 18 what -- what are you --

19 [REDACTED] These are exhibits. You're
 20 welcome to come to the meeting, the continuation of
 21 this hearing.

22 MR. SEAL: Uh-huh.

23 [REDACTED] It's at 851 S.W. Sixth Avenue,
 24 Suite 1040.

25 MR. SEAL: Okay. Do -- do any of them

1 you're --

2 [REDACTED] I'm following the law.

3 MR. SEAL: Anyway, nevertheless, you can
 4 continue your meeting for a short duration, 10 minutes
 5 maximum and then we would ask you --

6 [REDACTED] I'm going to go somewhere else
 7 to continue the meeting.

8 MR. SEAL: Okay. That would be great.

9 [REDACTED] So the address I gave you, if
 10 you'd like to attend, you're welcome.

11 MR. SEAL: Uh-huh.

12 [REDACTED] We'll start up in 20 minutes
 13 from now. What time is it now?

14 [REDACTED] Five till ten.

15 [REDACTED] Okay. So five minutes till
 16 ten, so ten -- 10:15.

17 MR. SEAL: And you're welcome to send us
 18 copies --

19 [REDACTED] I will send you a copy.

20 MR. SEAL: -- your exhibits or whatever --

21 [REDACTED] I will do that.

22 MR. SEAL: -- you know, you have, that we
 23 would appreciate that.

24 [REDACTED] Okay. No problem.

25 MR. SEAL: Okay. All right. Thank you.

1 [REDACTED] So this meeting will be
 2 continued in 20 minutes.
 3 (A recess was taken from 9:57 a.m. to 10:20
 4 a.m.)
 5 [REDACTED] We're back on the record. It's
 6 now 10:18 on October the 13th, Friday, and we're back
 7 on the record. We just left the IRS offices. We were
 8 asked to leave.
 9 The revenue agents, Marilyn Page and Michael
 10 Seal, would not go under oath, and they did not have
 11 any identification showing that they had authority to
 12 look at my books and records or to ask me any
 13 questions.
 14 They were willing to give me five to 10
 15 minutes to put my exhibits on the record. That wasn't
 16 enough time, and so we were asked to leave the
 17 building, and so now we're at 815 S.W. Sixth Avenue,
 18 Suite 1040 in Portland, Oregon, which it's a court
 19 reporting conference room.
 20 I'm going to proceed to put the exhibits on
 21 the record that I tried to put on the record
 22 previously. Exhibit No. 1 is 26 CFR 2.1-1 which is
 23 the definition of a taxpayer which I previously read
 24 into the record. A taxpayer means a citizen who has
 25 established or seeks to establish a construction

1 Revenue has been established by the Secretary of the
 2 Treasury, not the Internal Revenue Service, and I'm
 3 submitting marked as Exhibit 3, 31 USC Chapter 3,
 4 which contains a statutory list of the organization of
 5 the Department of the Treasury, and the Internal
 6 Revenue Service is not listed.
 7 Both Marilyn Page and Michael Seal
 8 identified themselves as revenue agents, and Marilyn
 9 Page has identified herself as a Revenue Agent on
 10 correspondence to me previously. I would like to
 11 admit into evidence Exhibit No. 4 which is 27 CFR
 12 250.11, and that says that the Revenue Agent is
 13 defined as a Revenue Agent for the Department of the
 14 Treasury of Puerto Rico.
 15 And also I'd like to correct what I just
 16 said and redo the definition for a Revenue Agent. It
 17 read specifically, Any duly authorized Commonwealth
 18 Internal Revenue Agent of the Department of the
 19 Treasury of Puerto Rico. That is the definition of
 20 Revenue Agent.
 21 Marilyn Page cited as her authority to ask
 22 me questions Delegation Order No. 4. I asked her if
 23 she could produce that for me, and she said that they
 24 could not. Michael Seal offered to give me an
 25 unsigned copy, which is useless, and instructed me to

1 reserve fund under the provisions of Section 511 of
 2 the Act and the regulations in this part, and may
 3 include a partnership.
 4 And I testified that I have not established
 5 or sought to establish a construction reserve fund
 6 under the provisions of Section 511 of the Act, and I
 7 am not a partnership.
 8 Exhibit No. 2 is from the Internal Revenue
 9 manual. It's Exhibit 1(16)50-5, and they're samples
 10 of authorized identification cards, and it identifies
 11 the white card with the blue background in the photo
 12 area as a normal ID card, not authorized access to any
 13 restricted area. That's Exhibit 2.
 14 I also want to note that the agents showed
 15 me their pocket commission cards, and they also had a
 16 blue background which does not authorize them access
 17 to any restricted area. I'm labeling Exhibit 2A a
 18 page from the Internal Revenue manual showing that the
 19 pocket commission cards, the ones with the blue
 20 background, do not give the agents access to
 21 restricted areas.
 22 I previously asked the revenue agents if
 23 they were a part of the Department of the Treasury,
 24 and Marilyn Page said that they were. That is false.
 25 Only the Office of the Commissioner of Internal

1 get a signed copy of Delegation Order No. 4 with a
 2 voir dire request. I have made such a request twice
 3 and not received a copy of any Delegation Order. I've
 4 marked this Exhibit No. 22.
 5 Delegation Order No. 4 has been superseded
 6 by a Treasury order, and that Treasury order grants
 7 and authorizes the narcotics drug and task force
 8 committee to do investigations into books and records
 9 not Internal Revenue Agents. That's marked Exhibit
 10 No. 23.
 11 Exhibit No. 5 is 31 USC (d)(2) and (d)(1),
 12 and it reads, The Secretary of the Treasury may
 13 accept, hold, administer, and use gifts and bequests
 14 of property, both real and personal, for the purpose
 15 of aiding or facilitating the work of the Department
 16 of the Treasury. Gifts and bequests of money and the
 17 proceeds from sales of other property received as
 18 gifts or bequests shall be deposited in the Treasury
 19 in a separate fund and shall be disbursed on order of
 20 the Secretary of the Treasury. Property accepted
 21 under this paragraph, and the proceeds thereof, shall
 22 be used as nearly as possible in accordance with the
 23 terms of the gift or bequest and sub. (2) says, For
 24 purposes of the Federal income, estate, and gift
 25 taxes, property accepted under paragraph (1) shall be

1 considered as a gift or bequest to or for the use of
2 the United States.

3 If the revenue agents had attended this
4 second part of this hearing, I would have asked them
5 the following questions: Have you been delegated any
6 authority relevant to obtaining gifts from the
7 public?

8 The revenue agents are not here, so I assume
9 that by their silence they have no such authority.

10 I would ask them, If you have such delegated
11 authority, may I see a copy of your authority?

12 Once again, I assume by silence that they
13 are admitting that they have no such authority.

14 Do you have any evidence that I am subject
15 to the National Prohibition Act?

16 And, again, by their silence I would assume
17 that they admit they have no such evidence.

18 I don't have any exhibit marked 6, so 6 is
19 missing or not marked.

20 Title 26 of the Internal Revenue Code is
21 literally the repealed National Prohibition Act which
22 was repealed in 1933 and classified to Title 26 in
23 1939 as the Internal Revenue Code of 1939 which is
24 evidenced by 48 USC 1402. I have marked that as
25 Exhibit No. 7.

1 dated June 6, 1972. The subject is the establishment
2 of the Bureau of Alcohol, Tobacco and Firearms. It
3 defines revenue officers as officers of the Bureau of
4 Alcohol, Tobacco and Firearms only and not the
5 Internal Revenue Service.

6 To quote, The terms "internal revenue
7 officer" and "officer, employee or agent of the
8 internal revenue" wherever used in such regulations
9 rules, instructions, and forms, in any law specified
10 in paragraph 2. above, and in 18 USC 1114, shall
11 include all officers and employees of the United
12 States engaged in the administration and enforcement
13 of the laws administered by the Bureau, who are
14 appointed or employed by, or pursuant to the authority
15 of, or who are subject to the directions, instructions
16 or order of, the Secretary.

17 Revenue Agent Michael Seal against my
18 fervent objections asked me if I had any income, so
19 I'd like to put on the record the definition of income
20 is 26 CFR 1.901-2 which is a part of what I've labeled
21 Exhibit No. 11.

22 We're going to go back a step here because I
23 skipped a step. I'd like to make a statement. I have
24 not received income as defined at 26 CFR 1.901-2. and
25 I would like to enter that in as Exhibit 11, nor have

1 Now, another question I would have asked the
2 Revenue Agents had they decided to attend this
3 hearing: If you have any evidence that I am subject
4 to the National Prohibition Act, please disclose it to
5 me now.

6 I assume no such evidence would be disclosed
7 as the agents have failed to appear.

8 26 CFR 601.601 discloses that Title 26 is
9 administered by the following officials: Commissioner
10 of the Bureau of Alcohol, Tobacco and Firearms,
11 Director of the Bureau of Alcohol Tobacco and
12 Firearms, General Counsel, Commissioner of Customs,
13 Commissioner of Narcotics, or any other official to
14 whom authority has been granted, and I have that
15 marked as Exhibit No. 8.

16 I would have also asked the Revenue Agents
17 which sections of the Internal Revenue Code pertain
18 strictly to the Bureau of Alcohol, Tobacco and
19 Firearms, and which pertains strictly to the Internal
20 Revenue Service. I would ask that because the Bureau
21 of Alcohol, Tobacco and Firearms is administered under
22 Title 27 and not Title 26, and the Revenue Agents were
23 attempting to utilize Title 27 to form this meeting.

24 There's no Exhibit No. 9.

25 Exhibit No. 10 is Treasury Order 120-01

1 I received gross income as defined in subtitle A.,
2 section 61, which is the definition of Guam income as
3 evidenced by 26 USC 7654-1 (a)(2)(ii), and that is
4 marked as Exhibit 12.

5 Exhibit No. 13 is 26 USC. Section 7805 which
6 instructs us that any regulations relating to the
7 Internal Revenue laws that are temporary have no force
8 and effect at law until made permanent.

9 Exhibit No. 14, 26 USC Section 7804
10 prohibits any IRS employee from making a false
11 statement under oath and for violating any civil
12 rights established under The Constitution of the
13 United States of an alleged taxpayer.

14 In order to protect all my rights, I
15 insisted that any IRS employee who wanted to speak
16 with me must first be put under oath, and both
17 employees refused to do so. That is Exhibit No. 14.

18 Exhibit No. 15 is 26 CFR Chapter 1, Section
19 601.101 which is the rules showing that the IRS may
20 not rely on or share any ATF regulations, and I quote,
21 The regulations relating to the taxes administered by
22 the Service are contained in Title 26 of the Code of
23 Federal Regulations. The regulations administered by
24 the Bureau of Alcohol, Tobacco and Firearms are
25 contained in Title 27 of the Code of Federal

1 Regulations. See 601.301, and there is no sharing of
2 regulations.

3 Exhibit No. 16 is Public Law 105.206, Title
4 III. Section 3502, July 22nd, 1988. 112 Statutes at
5 Large 770 which provides that billions of dollars have
6 been spent on modernization of the tax system record
7 keeping, and it was a complete flop. The IRS records
8 are thus inherently unreliable. And in light of this
9 fact, any records that the IRS claims to have or have
10 maintained on me under this section would be deemed
11 inherently unreliable.

12 Exhibit No. 17, 1 USC Section 204 shows that
13 Title 26 of the United States Code was not enacted
14 into positive law and refers to Title 26 as a separate
15 code.

16 Title 48, Section 2141 also references this
17 separate tax as being Guam territorial income tax, and
18 that is labeled Exhibit No. 18.

19 I asked the agents what they were relying on
20 for their authority to look at my books and records
21 and to ask me questions. Agent Page said that she was
22 relying on, I believe, 7203 of the Code, and Exhibit
23 No. 19 is a parallel table of authorities which does
24 not list 7203 as having any implementing regulations.

25 They also rely on 7210 which also has no

1 I still maintain that I will produce such
2 books and records should I be called upon by someb
3 with the proper authority. I have asked the IRS to
4 forward me \$1100 to make a complete inventory of
5 my books and records and to determine the cost of
6 copying such books and records and putting them in
7 offered for the IRS to review, someone with authority
8 of course, to review, and as soon as they forward a
9 check to me and someone with authority asks to revi
10 my books and records, I will allow them to do that.
11 Excuse me. Somebody with proper authority and pr
12 identification.

13 And I also have one last exhibit, Exhibit
14 21, where Marilyn Page sent me a letter dated
15 September 12th, 2000, and she has identified me as a
16 taxpayer, and I object to that designation on the
17 record. I am not a taxpayer under the definitions
18 previously stated.

19 Marilyn Page and Michael Seal of the
20 Internal Revenue Service called this proceeding, and
21 they have the power to call the proceeding. I'm the
22 only one with the power to terminate the proceeding.
23 I want to state very clear for the record that I am
24 not terminating this proceeding. I am simply
25 recessing until further notice.

1 implementing regulation on the table of authorities.
2 Many of these sections of the code relate to Title 27
3 which is only the Bureau of Alcohol, Tobacco and
4 Firearms, and the two Agents identified themselves to
5 me as Internal Revenue Service Agents and not Agents
6 of the Bureau of Alcohol, Tobacco and Firearms.

7 What this means is when there's no
8 implementing regulation that they have to revert back
9 to the original statutes, which they did not, and that
10 would be under the United States statutes at large.

11 I was attending this meeting as a courtesy
12 and voluntarily in response to a letter I received
13 from Marilyn Page, the Revenue Agent, and I've stated
14 for the record previously and I would like to repeat
15 that I have never been noticed by the Assistant
16 Commissioner (International) or the District Director
17 to keep books and records as required by delegation
18 order Number 24 which is previously labeled Exhibit
19 No. 20.

20 And, in addition, I want to note for the
21 record that I have never refused to divulge any books
22 and records to someone in the Internal Revenue Service
23 possessing the proper authority to view my books and
24 records and to ask me questions about those books and
25 records.

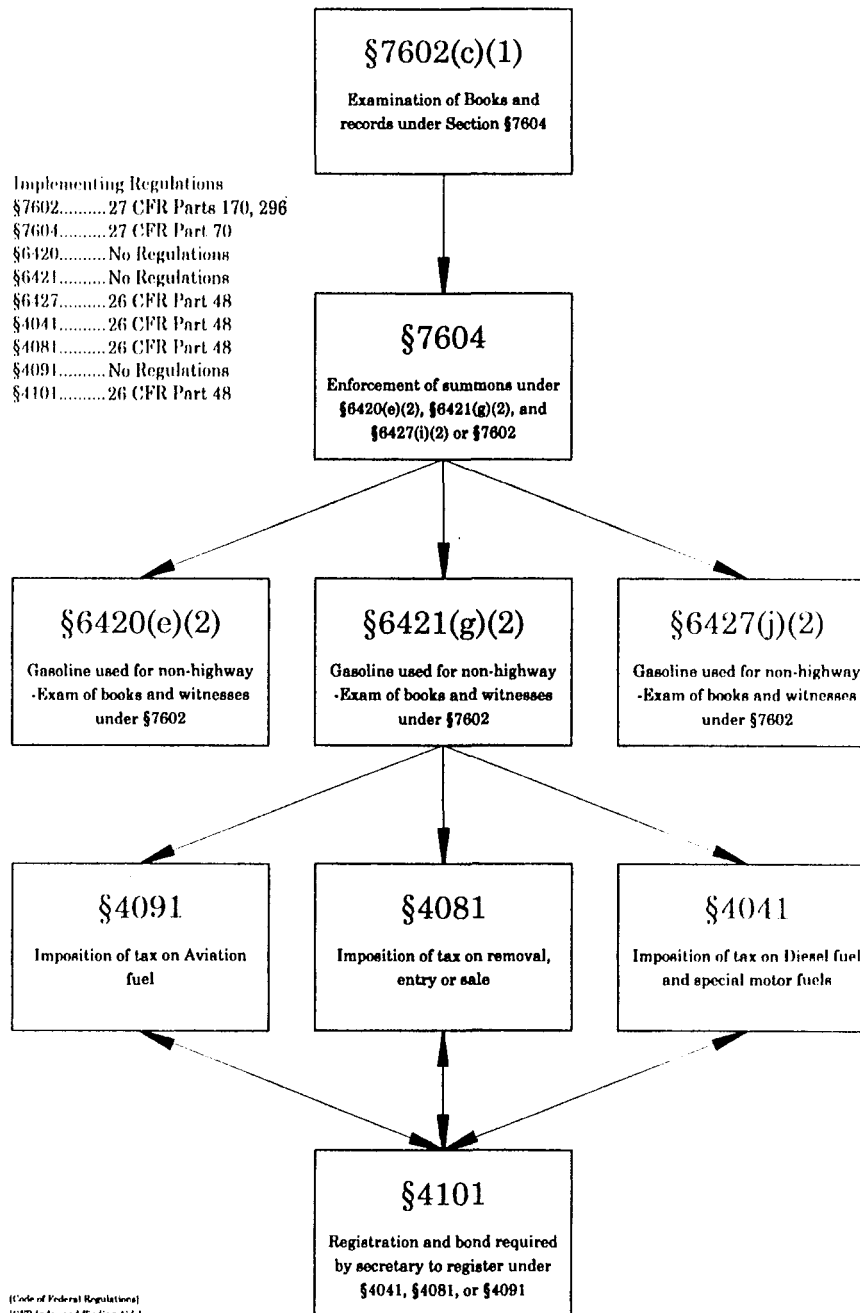
1 If and when I decide to resume this hearing,
2 this proceeding, I will notify Marilyn Page and
3 Michael Seal of the time and date and place of the
4 hearing and where it is to take place, and we will
5 continue the hearing so that either Ms. Page or
6 Mr. Seal or someone with the proper authority and
7 credentials can attend the further proceeding.

8 At this time I recess until further notice.
9 (The proceeding adjourned at 11:00 a.m.)

2039 Summons under Title 26 §7602(c)(1)

Form 2039 - Administrative Summons Obtaining Evidence from Abroad Administratively

Implementing Regulations
 §7602..... 27 CFR Parts 170, 296
 §7604..... 27 CFR Part 70
 §6420..... No Regulations
 §6421..... No Regulations
 §6427..... 26 CFR Part 48
 §4041..... 26 CFR Part 48
 §4081..... 26 CFR Part 48
 §4091..... No Regulations
 §4101..... 26 CFR Part 48



(Code of Federal Regulations)
 (CFR Index and Finding Aids)
 (Parallel Table, Revised as of January 1, 1996)
 (EMCTD, (parallel table only)
 From the IRS (Government Printing Office via GPO access

Exhibit A 1 of 1

FOIA for Summons

- A. If you are not familiar with the basic procedures for making a FOIA request, review the previous “VIP Dispatches” concerning this area.
- B. The background information included in these FOIA requests is also useful in other ways.
- C. We have not seen anyone else doing this unless they were taught by us in these procedures.
- D. Summons can be very serious. They can have great ramifications down the road if you are not savvy as to what the results will be if you fail to handle them properly.
 - 1. Most Attorney’s, Tax Accountants, CPA’s, and others will tell you to willingly turn over all your personal information to the IRS. Or, they are so nice that they will give the IRS all of your files that you paid for them to maintain and protect.
 - 2. If the IRS wants these files that you spent thousands to have created, then at least make them pay for them before turning them over.
- E. Try to never let a third party keep any more of your records than necessary.
- F. We know an Attorney who was summoned to produce all his records for several years so he immediately turned over a number of boxes of his records, all originals, and you guessed it... they lost all his files.
 - 1. They Summoned him again to produce those same records that they admitted they lost and took him to court trying to get those same records.
 - 2. These are the types of people we have to deal with.
- G. Please do not use the following information incorrectly!

FOIA for a IRS form 637

- A. IRS Form 637, Application for Registration (for certain Excise Tax Activities).
- B. If you have filed one of these forms then by doing so you granted the IRS or BATF authority to look at your books and records under IRC section 4101.
 - 1. By signing a 637 they can also do a walk in random check of your records during regular business hours only.
 - 2. There are also other classifications where they can walk in or request you bring in records.
 - 3. Signing a 1040 or not signing a 1040 is not one of those activities. However, they will try to get you to believe that you have duty to sign.
- C. Go to Exhibit A, 5 of 6, read the bottom right hand side starting at Privacy Act and Paperwork Reduction Act Notice and you will find IRC section 4101.
 - 1. When you study the notes in IRC 7602 you will find that it refers to 4101 only just as our 2039 Summons Chart points out.
- D. Now you can also use this 637 form in a summons hearing by putting it into evidence. It is then evidence that you are not engaged in an excise taxable activity and serves to rebut that erroneous presumption.
- E. If you get a summoned we suggest you send out this FOIA ASAP!

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
(local district address)
(local district address)

FROM: name
addr1
addr2

Account # (SSN or EIN)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, IRS Form 637, Application for Registration.
5. Please send any and all copies of IRS Form 637 that pertains to above referenced SSN or EIN.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Requester

**Application for Registration
 (For Certain Excise Tax Activities)**

Part I Identification of Applicant

Type or print	Name of individual, corporation, partnership, association, etc.	Employer identification number :
	Business name, if different from above	Telephone number ()
	Mailing address (number, street, and room or suite no. if P.O. Box, see page 5.)	Fax number ()
	City or town, state, and ZIP code	
	If you listed a P.O. Box above, or if your street address is different from your mailing address, list your street address (including city or town, state, and ZIP code)	

Part II Activities. Enter the activity letter from the chart on pages 3-4 and a brief description of each activity for which you are applying for registration. Also, attach the **Additional Information Required** for each activity to which this application applies.

Activity Letter	Activity Description

Part III General Information

Section A—For All Applicants

Answer all the questions below. Attach a separate sheet(s), as needed, to answer items 2b through 7. Identify each sheet with your name and employer identification number (EIN) at the top, and write the number of the item to which each answer applies. If any questions do not apply to you, explain why.

- 1a Are you or will you be required to file Form 720, Quarterly Federal Excise Tax Return? Yes No
- b Have you previously applied to be registered by any IRS office? Yes No
- c Have you, or any related entity, had a Certificate of Registry or Letter of Registration revoked by any IRS office? Yes No
- d If you answered "Yes" to b or c, enter the name of the IRS office _____

- 2a List the date your business started ► Month _____ Year _____
- b Explain in detail your business activity.
- 3 For all other business entities to which you are related, list:
 - a The name and EIN of the related entity,
 - b The percentage of ownership, and
 - c How you are related (for example, stock, partnership, etc.).
- 4 List all addresses of current business operations (include out-of-state or foreign operations, if applicable).
- 5 List the address where your books and records are kept (if different from the address in Part I).
- 6 List the names and social security numbers (SSNs) of all business owners, corporate officers, members, or partners.
- 7 List the name and phone number of a person whom we can contact about this application.

Section B—For Fuel Applicants

If you are applying for fuel activities K, M, R, S, T, and W, you must also provide the information in items 8 through 15 below and on page 2.

- 8 Attach a copy of your last Federal income tax return and other evidence that reflects financial responsibility such as your income statement, balance sheet, or bond rating.
- 9 Describe any changes in your ownership or changes of controlling stock ownership in the past 2 years. If none, enter "None"

Exhibit A 1 of 6

Answer each question below by checking the "Yes" or "No" box. If you answer "Yes" to any of these questions, provide a full explanation. You can use the space below or attach an additional sheet(s).

- Have you or any related person (see Regulations section 48.4101-1(b)(5)) been:
 - 10** Assessed any penalty under chapter 68 of the Internal Revenue Code (or similar provision of the law of any state) for fraudulently failing to file any return or pay any tax, and the penalty has not been wholly abated, refunded, or credited? Yes No
 - 11** Assessed any penalty under chapter 68 of the Internal Revenue Code, and the penalty has not been wholly abated, refunded, or credited? Yes No
 - 12** Convicted of a crime under chapter 75 of the Internal Revenue Code (or similar provision of the law of any state), or of conspiracy to commit such a crime, and the conviction has not been wholly reversed by a court of competent jurisdiction? Yes No
 - 13** Convicted, under the laws of the United States or any state, of a felony for which an element of the offense is theft, fraud, or the making of false statements, and the conviction has not been wholly reversed by a court of competent jurisdiction? Yes No
 - 14** Assessed any tax under section 4103 (willful failure to pay the tax imposed by section 4081 or 4091) and the tax has not been wholly abated, refunded, or credited? Yes No
 - 15** Advised that your registration has been revoked? Yes No

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and, to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature
 Title
 Date

(Type or print name below your signature.)

Exhibit A 2 of 6

Activity Letter	Additional Information Required
A Manufacturer of gas guzzler automobiles, sport fishing equipment, bows, arrow components, tires, or vaccines.	<ol style="list-style-type: none"> 1. List all articles manufactured. Include advertising brochures, if available. 2. List the organizations or businesses (for example, state or local government or school) to which you intend to sell articles tax free. 3. List the monthly volume of tax-free articles you intend to sell. Also, list the monthly volume of taxed articles you intend to sell.
B Buyer of sport fishing equipment, gas guzzler automobiles, bows, arrow components, or vaccines for further manufacture or for resale to a buyer for further manufacture.	<ol style="list-style-type: none"> 1. List articles you intend to purchase for further manufacturing or for resale for use by the buyer for further manufacturing. 2. List the businesses that articles will be sold to for use in further manufacturing, if applicable. 3. List other types of sales of articles other than for further manufacturing.
C Buyer of tires for use on or in connection with the sale of another article the buyer manufactures and sells (1) for export, (2) to state and local governments, (3) to nonprofit educational organizations, or (4) as supplies for vessels or aircraft.	<ol style="list-style-type: none"> 1. List the type and weight of the tires being bought. 2. List the articles manufactured (1) on which the tires will be used or (2) in connection with which the tires will be sold. 3. List the organizations or businesses with which you intend to have tax-exempt sales.
D Buyer with a place of business in the United States purchasing vaccines, gas guzzler automobiles, tires, sport fishing equipment, bows, arrow components, or luxury passenger vehicles for export or for resale to a second purchaser for export.	<ol style="list-style-type: none"> 1. List the articles you intend to buy for export or resale to others for export. 2. List the businesses to which you intend to sell articles for export.
E Buyer (other than state or local government) of gas guzzler automobiles for ambulance, law enforcement, or firefighting.	<p>You only have to provide the general information for all applicants. No additional information is required.</p>
F Nonprofit educational organization, other than a public school, buying tires, certain heavy vehicles, sport fishing equipment, bows, or arrow components for its exclusive use.	<ol style="list-style-type: none"> 1. Provide a general description of the type of educational facility, including faculty, curriculum, and student body. 2. Provide a copy of the IRS determination letter granting exemption from Federal income tax. 3. List products subject to Federal excise tax bought for the exclusive use of the organization. 4. Describe how the products will be used in the operation of the organization. 5. List activities (other than educational) conducted by the organization.
H Importer or producer (including wholesale distributor) of aviation fuel (other than gasoline).	<ol style="list-style-type: none"> 1. List the total number of sales of aviation fuel and total volume of these sales during the last 12 months. 2. List the number of sales of aviation fuel during the last 12 months to producers, retailers, or bulk purchasers and the total volume of these sales. 3. List the total volumes for nontaxable purposes. 4. List the customers who purchase aviation fuel from you. 5. List the locations of all retail outlets you own or operate. Describe the retail operations and the storage capacities of each retail outlet. 6. Indicate whether you consign aviation fuel or handle any aviation fuel to which you do not hold the title. If either of these situations applies, include a brief statement describing the arrangement.
I Buyer (other than nonprofit educational organization or state or local government) of tires for use on certain intercity, local, or school buses.	<ol style="list-style-type: none"> 1. List types and weights of tires being bought. 2. Describe the types of buses (intercity, local, or school) on which the tires are used. 3. Describe how the buses are used in the operation of the business.
J First retail seller of luxury passenger vehicles for export.	<p>List the businesses to which you intend to sell articles for export.</p>
K Buyer of kerosene for a feedstock purpose.	<ol style="list-style-type: none"> 1. List the type of kerosene being purchased for a feedstock purpose. 2. Describe the product and manufacturing process for which the kerosene will be used as a feedstock.

Activity Letter	Additional Information Required
M Blender of gasoline, diesel fuel, or kerosene outside the bulk transfer/terminal system.	<ol style="list-style-type: none"> 1. List the products bought or produced for blending with gasoline, diesel fuel, or kerosene. 2. List the annual volume of products bought for blending. 3. List the annual volume of blended taxable fuel produced.
Q First retail seller of certain heavy vehicles.	<ol style="list-style-type: none"> 1. Describe the heavy vehicles you intend to sell. 2. Describe the exempt sales of the heavy vehicles you intend to make.
R Operator (other than state or local government) of diesel-powered intercity or local buses.	<ol style="list-style-type: none"> 1. List the sizes and types (intercity or local) of buses operated in your business, including seating capacity. 2. List the monthly volume of dyed diesel fuel used.
S Enterer, position holder, refiner, terminal operator, or throughputter of gasoline, diesel fuel, or kerosene; or industrial user of gasoline.	<ol style="list-style-type: none"> 1. List the annual volume of gasoline, diesel fuel, and kerosene entered into the United States or produced. 2. List the locations and a description of your refineries, terminals, and pipelines. 3. List the names and addresses of any person(s) who will be acting for you as an agent or broker in entering, buying, selling, or transporting any fuel. 4. List the business entities to whom you sell, and with which you buy, trade, transfer, or exchange any gasoline, diesel fuel, and kerosene. 5. Provide the annual volume of gasoline, diesel fuel, and kerosene you buy, sell, trade, transfer, or exchange.
T Buyer of gasoline for blending into gasohol outside the bulk transfer/terminal system.	<ol style="list-style-type: none"> 1. List the type and proof of the alcohol bought and the monthly volume bought. 2. List the monthly volume of gasoline bought for blending. 3. List the monthly volume of gasohol produced. 4. Describe the gasohol blending process used. 5. List the suppliers who sell gasoline to you for gasohol production. 6. List the suppliers who sell alcohol to you for gasohol production.
UP Ultimate vendor that sells kerosene from a blocked pump.	<ol style="list-style-type: none"> 1. Describe the blocked pumps used to sell kerosene in your business. 2. List the location of the blocked pumps.
UV Ultimate vendor that sells undyed diesel fuel or undyed kerosene to a state or local government for its exclusive use or for use by the buyer on a farm for farming purposes.	You only have to provide the general information for all applicants. No additional information is required.
V Manufacturer, importer, or buyer of ozone-depleting chemicals (ODCs) for export.	<ol style="list-style-type: none"> 1. List the ODCs you import or manufacture for export. 2. List the companies from which you buy ODCs for export. 3. List the number of pounds for each type of ODC exported in this calendar year and an estimate for next calendar year. 4. List your export locations. 5. List your production allowance, consumption allowance, export allowance, and export percentage as set by the Environmental Protection Agency.
W Operator (other than state or local government) of a diesel-powered train.	<ol style="list-style-type: none"> 1. List the monthly volume of dyed diesel fuel used. 2. List the number and types of diesel-powered highway vehicles you own and/or operate and describe the fueling arrangements for these vehicles.
X Pipeline operator or vessel operator within the bulk transfer/terminal system.	<ol style="list-style-type: none"> 1. Schematic or map of pipeline locations. 2. Names and addresses of facilities served by pipeline or vessel. 3. Number, description, and capacities of vessels used to transport taxable fuel.
Y Buyer of aviation fuel for its use in commercial aviation (other than foreign trade).	<ol style="list-style-type: none"> 1. List the quantity, types, and gross take-off weights of all aircraft you own and/or operate. Include the countries of registration. Aircraft that you operate but that are owned by other persons should be clearly designated. Information should be included as to the operating arrangements. 2. List the average number of operating hours (per month) of each aircraft that is listed in item 1. Show the number of hours for commercial aviation (other than foreign trade) and noncommercial aviation. 3. If you maintain aviation fuel storage facilities, list the location and capacity of each facility.

General Instructions

Section references are to the Internal Revenue Code.

Changes To Note

1. New Activity Letters

- Activity Letter E for buyer (other than state or local government) of gas guzzler automobiles for ambulance, law enforcement, or firefighting.
- Activity Letter J for the first retail seller of luxury passenger vehicles for export.
- Activity Letter K for a buyer of kerosene for a feedstock purpose.
- Activity Letter X for pipeline operator or vessel operator within the bulk transfer/terminal system.

2. Activity Letter G (relating to inventories of taxable chemicals) was deleted because the excise tax on those articles expired.

Purpose of Form

Use Form 637 to apply for excise tax registration for activities under sections 4101, 4222, and 4682. See the chart on pages 3-4 for the list of activities. Each business unit that has, or is required to have, a separate employer identification number (EIN) is treated as a separate person.

The following must be registered under section 4101:

- Pipeline operator or vessel operator: Activity Letter X
- Enterers, position holders, refiners, and terminal operators: Activity Letter S
- Blenders: Activity Letter M
- Bus and train operators who use dyed diesel fuel in their buses or trains: Activity Letters R and W, respectively.

How To Apply

Complete Form 637 and submit it with the required additional information described on the chart on pages 3-4. You may use additional sheets for your explanations. Be sure to write your name and EIN on each sheet you attach. You must send all of the required information or the processing of your application will be delayed. The IRS will ask you for additional information if needed, or you may provide additional information at any time.

The application must be reviewed and approved before you are registered for any activity. The review may include inspection of your premises during normal business hours without advance notice. If your application is approved, the IRS will issue a Letter of Registration. The letter will include the activities you are registered for, the effective date of the registration, and your registration number. A copy of Form 637 is not a Letter of Registration.

If your application is denied, you will be notified in writing by the IRS that the application has been denied and the reason for the denial.

Employer Identification Number (EIN)

Enter your EIN. If you do not have an EIN, use Form SS-4, Application for Employer Identification Number, to apply for one. You can get this form at Social Security Administration offices or by calling 1-800-TAX-FORM (1-800-829-3676). You can ask for an EIN by calling the Tele-TIN phone number for your service center listed in the instructions for Form SS-4.

P.O. Box

If the Post Office does not deliver mail to your street address and you have a P.O. box, show the box number instead of the street address.

Signature

Form 637 must be signed by a person with authority to bind the applicant.

Where To Apply

File Form 637 with the Internal Revenue Service Center, Cincinnati, OH 45999.

Changes in Registration

If an IRS office has issued you a Certificate of Registry or a Letter of Registration that is still in effect for an activity, you are not required to reapply for registration for that activity unless notified to do so. However, to apply for another activity or to cancel a registration, you must contact the IRS office in which you are registered.

Notify the IRS office within 10 days if any information submitted with an application changes. This includes, but is not limited to, address changes, changes in ownership, or changes in business activities. A registrant may not sell, lease, or otherwise allow another person to use its registration.

Additional Registration Information

For registration relating to:

- Gasoline, diesel fuel, and kerosene, see Regulations section 48.4101-1.
- All other articles, see Regulations section 48.4222-1.
- Exports of ozone-depleting chemicals, see Regulations section 52.4682-5.

Pub. 510, Excise Taxes for 2001, has information on the various excise taxes.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle D of the Internal Revenue Code, Miscellaneous Excise Taxes, imposes certain excise taxes. Section 4101 provides registration requirements for purposes of the Federal excise tax on fuel imposed under sections 4041, 4081, and 4091. Sections 4222 and 4682 require certain manufacturers or sellers and purchasers to register to be exempt from the excise tax on taxable articles. The information submitted is used to determine if the applicant qualifies for registration.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is **Recordkeeping**, 10 hr., 17 min.; **Learning about the law or the form**, 1 hr., 41 min.; **Preparing and sending the form to the IRS**, 1 hr., 56 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. Do not send this tax form to this address. Instead, see **Where To Apply** on page 5.

How To Get Forms and Publications

Personal Computer

You can access the IRS Web Site 24 hours a day, 7 days a week, at www.irs.gov to:

- Download forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send us comments or request help by e-mail.
- Sign up to receive local and national tax news by e-mail.

You can also reach us using File Transfer Protocol at [ftp.irs.gov](ftp://ftp.irs.gov).

CD-ROM

Order Pub. 1796, Federal Tax Products on CD-ROM, and get:

- Current year forms, instructions, and publications.
- Prior year forms, instructions, and publications.
- Popular tax forms that may be filled-in electronically, printed out for submission, and saved for recordkeeping.
- The Internal Revenue Bulletin.

Buy the CD-ROM on the Internet at www.irs.gov/cdorders from the National Technical Information Service (NTIS) for \$21 (plus no handling fee) or call 1-877-CDFORMS (1-877-233-6767) to buy the CD-ROM for \$21 (plus a \$5 handling fee).

Phone

You can get forms, publications, and automated information 24 hours a day, 7 days a week, by phone. Call 1-800-TAX-FORM (1-800-829-3676) to order current and prior year forms, instructions, and publications. You should receive your order within 10 days.

Walk-In

You can pick up some of the most requested forms, instructions, and publications at many IRS offices, post offices, and libraries. Some IRS offices, libraries, grocery stores, office supply stores, and copy centers have an extensive collection of products available to photocopy or print from a CD-ROM.

Unresolved Tax Issues

If the entity has attempted to deal with an IRS problem unsuccessfully, it should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents the entity's interests and concerns within the IRS by protecting its rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that the entity's case is given a complete and impartial review.

The entity's assigned personal advocate will listen to its point of view and will work with the entity to address the concerns. The entity can expect the advocate to provide:

- A "fresh look" at a new or on-going problem.
- Timely acknowledgment.
- The name and phone number of the individual assigned to its case.
- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, the entity should provide the following information:

- The entity's name, address, and employer identification number.
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s) involved.
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that had been contacted.
- A description of the hardship the entity is facing (if applicable).

The entity may contact a Taxpayer Advocate by calling a toll-free number, 1-877-777-4778. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If the entity prefers, it may call, write, or fax the Taxpayer Advocate office in its area. See Pub. 1546, The Taxpayer Advocate Service of the IRS, for a list of addresses and fax numbers.

FOIA for a IRS Form 12180

- A. If you have received or been served with a summons, you should send a FOIA request for this IRC Form 12180 that is specific to you.
- B. This is for third party contacts under IRC 7602(c).
 - 1. Did you sign one of these?
- C. What will usually happen is that as soon as a third party is contacted they will turn over directly to the IRS your records without your authorization.
 - 1. The only way they can do this lawfully is if you are in a specific status under the IRC or engaged in a certain activity.
- D. If they do not have your permission to turn over those books and records to the IRS and the IRS or Federal Prosecutor tries to use them in court then you will have the option to file a “Motion in Limine” to stop their introduction into a court proceeding.
- E. They would not have to create this form 12180 until they issued the summons.
 - 1. If you are not being summoned either yourself or a third party then you would not need to do this FOIA.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
(local district address)
(local district address)

FROM: name
addr1
addr2

Account # (SSN or EIN)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, IRS Form 12180, Third Party Contact Authorization Form.
5. Please send me any and all copies of IRS Form 12180 that are in above referenced SSN or EIN's file.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Requester

THIRD PARTY CONTACT AUTHORIZATION FORM

(Internal Revenue Code Section 7602(c))

Under section 7602(c) of the Internal Revenue Code, the Internal Revenue Service (IRS) is required to provide taxpayers with reasonable advance notice that contacts with persons other than the taxpayer may be made with respect to the determination or collection of the tax liability of such taxpayer. Additionally, the IRS is required to provide the taxpayer with a record of persons contacted on a periodic basis. The IRS will also provide this record to the taxpayer upon request. However, the IRS is not required to provide advance notice or a record of persons contacted with respect to any contacts which the taxpayer has authorized.

By signing this form, you are waiving your rights under section 7602(c) with respect to the persons you have authorized the IRS to contact. Accordingly, the IRS will not be required to maintain a record of these contacts. If no third party contacts are made other than those authorized by you, the IRS will not be required to provide you with advance notice that contacts with third parties may be made or provide you with a record of persons contacted.

Authorization of Third Party Contact(s)

I authorize an officer or employee of the Internal Revenue Service to contact the following third person(s) with respect to the determination or collection of my tax liability.

Name(s) of Third Person(s) _____

I understand that by signing this form, I am waiving my rights under section 7602(c) with respect to contacts made by an officer or employee of the Internal Revenue Service with the above-listed person(s).

TAXPAYER'S SIGNATURE	_____	DATE	_____
TAXPAYER IDENTIFICATION NUMBER	_____		
SPOUSE'S SIGNATURE	_____	DATE	_____
TAXPAYER'S REPRESENTATIVE	_____	DATE	_____
CORPORATE NAME	_____	DATE	_____
CORPORATE OFFICER(S)	_____	DATE	_____

ENTER ONLY (1) ONE THIRD PARTY CONTACT PER FORM

1. Enter only (1) one Taxpayer TIN. This is an edited TIN, enter the dashes where appropriate include appropriate file source code.
2. Enter the four-letter name control for the taxpayer. Ensure that it is the correct name control for the Taxpayer TIN in Box 1.
3. Enter your Employee Identification Number. Enter your badge number or enter your IDRS Number. Enter your telephone number. Enter your mail stop number (if applicable).
4. Secondary TIN should be entered for joint 1040 situations only.
5. Put a check mark on the appropriate line to signify that the third party contact is for the Primary TIN, or the Secondary TIN, or if it is for Both the Primary and Secondary TINs. Both should only be checked in those situations where there is a joint filing 1040. Do not check more than one.

CONTACT INFORMATION

6. Enter the date the third party contact was made. Use the following format (yyyy/mm/dd) to enter the date: 1999/01/19.
7. IF A FEAR OF REPRISAL HAS BEEN INDICATED, THEN CHECK THE "REPRISAL" BOX. IF FEAR OF REPRISAL HAS BEEN INDICATED, ONLY THE FOLLOWING DATA SHOULD BE ENTERED ON THE THIRD PARTY CONTACT FORM: TAXPAYER TIN, NAME CONTROL, EMPLOYEE ID NUMBER, TELEPHONE NUMBER, MAIL STOP NUMBER, DATE OF CONTACT AND THE REPRISAL BOX SHOULD BE CHECKED.

8. Provide a full name of the third party whenever possible. If the name of the third party is not known but the employee knows the relationship of the third party to the taxpayer, write the term that describes the relationship. Examples: wife, mother, brother, neighbor, son etc. If the name or relationship is not known but the occupation of the third party is known, write the occupation. Examples: gardener, loan officer, etc. If a business is identified as a third party contact, write the complete business name. Example: First National Bank of Richmond, Virginia. For a business contact, employees are required to write only the name of the business, not the name of the employee of the business.

In situations where the name of third party, the relationship or the occupation is not known, employees should write "Unknown Person" as the third party name.

9. Employee Plans and Exempt Organizations Use Only. If an Employee Plan, enter the three digit Employee Plan Number, also if an Employee Plan, make sure to place a P at the end of the Primary TIN. If an EP/EO determination, enter the EP/EO Determination Case Number (EDS) or if assigned to National Office, enter Control Number, in the following format: 999999999X where 999999999 = the EDS Case Number or National Office Case Control Number; X = the type of case and has the following values: E = EP Determination, O = EO Determination, A = EP Division (Headquarters), B = EO Division (Headquarters).

10. Enter all the (2) two digit Master File Tax Class Codes and Tax Periods for the taxpayer whom the Third Party Contact is related. Use this format: 30 1999 12; where 30 = m.f., 1999 = year, 12 = month. Please note: If an EIN is entered in Box 1, do not enter Individual Master File MFTs. If a SSN is entered in Box 1, do not enter Business Master File MFTs. IT IS IMPORTANT TO LIST ALL TAX PERIODS AND MFTs TO ENSURE MAILING THIRD PARTY CONTACT LISTINGS TO POAs.

Privacy Act Notice

Internal Revenue Code section 7502(c), added by the IRS Restructuring and Reform Act of 1998, requires the IRS to provide a report to each taxpayer of certain third party contacts made with respect to the determination or collection of the taxpayer's tax liability. The information on this form is used to make such reports. The employee identification number is used to determine the accuracy of the contact report information. Failure to provide this information may result in discipline.

FOIA for a IRS form 12175

- A. The same basic information contained in the section for the FOIA for the IRS Form 12180 applies to this IRS Form 12175.
 - 1. Except the 12175 is for internal use and the 12180 is for public use.
- B. The next page is from the IRS published product Catalog Document 7130 (Rev. 11-1999) and describes both the 12175 and the 12180.
 - 1. Following that page is the FOIA for the 12175.
- C. Just remember that first you must be in the correct status to do the FOIA request. Second if they should proceed against you in your case then ask for the 12175 and the 12180 in discovery. Third you can use a “Motion to Limine” to not allow any of these third party records into evidence such as bank records.

12172	26774X	Each	12184 AA	28642G	Each	12184 GG	28648U	Each
<i>11/1998 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Special Handling/See Remarks</i>		
History Sheet			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 11			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 23		
Form developed by Memphis Host Site for Space & Property Section employees to provide a statement of actions taken. The form provides additional space on the reverse side of the form.			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty; POD) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers inquire about specific services available. <i>M:C:MD</i> General Admin Public Use		
12173	26776T	Each	12184 BB	28643R	Each	12184 HH	28649F	Each
<i>11/1998 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Special Handling/See Remarks</i>		
Reported Allegations of Sexual Harassment			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 16			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 62		
Form is used by management official to report allegation of sexual harassment to EEO & Diversity Office. <i>DD:EEO</i> Internal Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quality" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services. <i>M:C:MD</i> General Admin Public Use		
12174	26790X	Each	12184 CC	28644C	Each	12184 II	28650G	Each
<i>11/1998 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Special Handling/See Remarks</i>		
Volunteer Class Registration form			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 13			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 74		
This form is a Volunteer Class Registration Form which used in association with the Taxpayer Education Newsletter packet for volunteers to selection which level of classes they need for VITA/TCE program. <i>TP:E</i> Internal Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use		
12175	26796L	Each	12184 DD	28645N	Each	12184 J	28624K	Each
<i>11/1999 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Destroy Prev Issues Upon Rec</i>		
Third Party Contact Report Form			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 56			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 94		
This form will be used by IRS employees to record all 3rd party contacts when contact is made in regard to the determination or collection of a Taxpayers tax liability. It was distributed to all exam and coll employees. <i>OP:CO:C:S</i> Internal Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty; POD) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use		
12177	26863R	Each	12184 EE	28646Y	Each	12184 JJ	28651R	Each
<i>11/1998 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Special Handling/See Remarks</i>		
Shelf Card for Stock Control			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 31			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 75		
Form is used to identify publications and tax forms in stockrooms in the walkin offices. <i>CS</i> Internal Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>6:C:MD</i> General Admin Public Use		
12180	26954H	Each	12184 FF	28647J	Each	12184 K	28625V	Each
<i>01/1999 No Previous Issue</i>			<i>10/1999 Special Handling/See Remarks</i>			<i>10/1999 Special Handling/See Remarks</i>		
Third Party Contact Authorization Form			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 73			IRS Office Visit—Customer Satisfaction Survey (English Version) District Code 95		
Form used to obtain taxpayers authorization to contact third parties as required by IRC section 7602(c). <i>OP:CO:C:S</i> Tax Related Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Office personnel (i.e., post-of-duty) to walk-in taxpayers or customers who inquire about specific services available. <i>M:C:MD</i> General Admin Public Use			These optical character recognition (OCR) survey forms are distributed "quarterly" by IRS Field Offices personnel (i.e., post-of-duty; POD) to taxpayers or customers who receive specific IRS services. <i>M:C:MD</i> General Admin Public Use		
12182	26961W	Each						
<i>12/1998 No Previous Issue</i>								
Fiscal Year Technical Training Plan								
The form is completed by Training Coordinators in each Branch of the Cincinnati Service Center to send to the Education Branch of the Covington Host Site. Employee Development Specialists use this plan to document training activity, prepare reporting instructions, and ensure accurate input into the ACES database. <i>DSS:CHS:E</i> Internal Use								

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
(local district address)
(local district address)

FROM: name
addr1
addr2

Account # (SSN or EIN)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, IRS Form 12175, Third Party Contact Form.
5. Please send me any and all copies of IRS Form 12175 which is in above referenced EIN or SSN's file.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Requester

Third Party Contact Report Form

1. Taxpayer TIN <small>(includes appropriate 90 source code)</small> -----	2. Name Control -----	3. Employee ID Number ----- Employee Telephone Number ----- Employee Mail Stop Number -----
4. Secondary TIN <small>(Joint Sing 1040 only)</small> -----		
5. Check if third party contact is for: <small>(note: check both for joint Sing 1040 only)</small>		
Primary TIN _____	Secondary TIN _____	Both _____

Contact Information

6. Date of Contact
date format is: yyyy/mm/dd
 _____ / _____ / _____

7. Reprisal Determination

If fear of reprisal has been indicated, check the box below

8. Name of Third Party (only 1 third party contact per form)

9. EP/EO USE ONLY

EP Plan Number _____

EP/EO Determination (EDS) Case Number
 National Office Case Control Number:

10. MFT/Tax Period				<small>example: 25 1999 12</small>		
<small>(enter all MFT and tax periods relating to Primary TIN)</small>				<small>MFT</small>	<small>year</small>	<small>month</small>
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This area is for Third Party Coordinator document control tracking use. Enter sequential document number.
 Document sequence number _____

FOIA Request for a IRS Form 6014

A. Because the IRS can attach to bank accounts without your knowledge or consent, it is generally a good idea to notify your bank(s), in writing that the IRS cannot inspect any of your bank records unless you have specifically authorizes such inspections by executing IRS form 6014. The IRS Printed Products Catalog describes this form as follows.

1. 6014 42996R (each)

Authorization—Access to Third Party records for Internal Revenue Service Employees.

Authorization from taxpayer to third party for IRS employees to examine records. Re-numbered as a 4-digit form from Letter 995(DO) (7/77). Changes suggested per IRM Section 4082.1 to help secure the correct information from the third party. *EX:ED* Tax related public use.

[IRS Printed Product Catalog]
[Document 7130, Rev. 6-89, p.49]
[See exhibit B]

B. Make explicit reference to this Form in a routine letter to your bank(s). Inform the appropriate bank officers that they must have a completed Form 6014 on file, **with your authorized signature**, before they can legally allow any IRS employees to examine your records.

C. Then state, that you hereby reserve your fundamental right to withhold your authorized signature from Form 6014, because it might otherwise constitute a waiver of your 4th Amendment rights, and no agency of government can compel you to waive any of your fundamental rights such as those explicitly guaranteed by the 4th amendment in the Constitution for the United States of America.

D. Banks are chartered by the States in which they do business, and as such they are “agencies” of State Government.

E. Therefore, the bank is simply not authorized to release information about you to IRS employees, without your consent.

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer
Internal Revenue Service
(local district address)
(local district address)

FROM: name
addr1
addr2

Account # (SSN or EIN)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
5. BACKGROUND: See Exhibit A, IRS Form 6014, Authorization-Access to Third-Parties Records for Internal Revenue Service Employees. See Exhibit B, section 6014 from IRS Published Product Catalog Document 7130 (Rev. 11-1999) Catalog Number 63740X.
5. Please send me any and all copies of IRS Form 6014 which is in above referenced EIN or SSN's file.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Requester

Authorization - Access to Third-Party Records For Internal Revenue Service Employees

To: _____

Internal Revenue Service employees will contact you, either in person or by mail.

Please give them access to all records, papers, memoranda, data, or information of any kind, however arranged, about your firm's transactions with or for any of us, starting with the tax year ending _____ and extending through the present. This authorization covers all transactions with any of us, whether under _____ (Name), _____ (EIN or SSN) or under those of a nominee, or with any of us among ourselves or with others (acting by partnership, trust, or otherwise). It applies to records or other items you received directly from us or for us or through others who prepared them about us.

Please give them access to all records, papers, memoranda, data, or information of any other kind, however arranged, about your firm's transactions with _____ (Name of decedent), _____ (SSN) who died _____ (Date of death)

The IRS employees may examine these records and other items, copy or photocopy them, or use them in any other way in their examination.

Any questions about the authority granted by this form are to be resolved in favor of the IRS employees.

_____ (Signature)	_____ (Title)	_____ (Date)
_____ (Signature)	_____ (Title)	_____ (Date)
_____ (Signature)	_____ (Title)	_____ (Date)

Exhibit A 1 of 1

Forms

- 5881** **42898M** Each
 10/1981 Destroy Prev Issues Upon Rec
EP Non-Examined Closings
 This form will be used by Employee Plans 'AIMS' to close non-examined returns off the AIMS data base. CP:EF:FS Internal Use
- 5883** **42899X** Pad
 04/1977 No Previous Issue
Special Processing Training - Unit I Trainee Progress Worksheet
 Form 5883 consists of 33 five page sets per pad HR:H:TEA Internal Use
- 5884** **13570D** Each
 1998 Min Supply For Late Filers
Work Opportunity Credit
 Used to compute jobs credits. OP:FS:FP:FCO Tax Form or Instruction
- 5887** **42902J** Each
 05/1977 Destroy Prev Issues Upon Rec
Screening Panel Final Rating Form For ES&D and Single Function Executive Selection
 This form will be used to document the Screening Panel's determination of Highly Qualified for applicants for Executive Selection and Development and single function executive positions. M:ES Internal Use
- 5888** **42903U** Each
 03/1980 Destroy Prev Issues Upon Rec
Screening Panel Worksheet for ES&D and Single Function Executive Selection
 This form is a worksheet used by screening panels to determine highly qualified applicants for Executive Selection and Development and Single Function Executive positions. M:ES Internal Use
- 5889** **42904F** Each
 05/1977 Destroy Prev Issues Upon Rec
Screening Panel Interview Form For ES&D and Single Function Executive Selection
 This form is used to make notes on applicant's performance during interview for Executive Selection and Development and single function executive selection. HR:H:E Internal Use
- 5890** **27825N** Each
 08/1990 Destroy Prev Issues Upon Rec
Federal Tax Deposit (FTD) Report and Transcript Request
 Form 5820 is prepared by FTD Unit personnel to request a change to an established record on the service center control file. The data on the completed form is input by DIS (Distributed Input System) operators and returned to the FTD Unit, which retains the form just long enough to verify that the appropriate action was taken to the system. R:R:A:D Internal Use
- 5898** **61513U** Each
 04/1980 Destroy Prev Issues Upon Rec
Case Completion Report
 This form is used to input information into the computerized Management Information System for the Internal Security Division. M:SOA Internal Use
- 5899** **61514F** Each
 05/1999 Use/Issue Prev Issue First
EP Update
 This form is used for Employee Plans 'AIMS' processing to update various elements contained on the data base. Form 5899 supercedes Form 5899 SCRS. CP:EF:FS Internal Use
- 5901** **61073R** Each
 02/1999 Destroy Prev Issues Upon Rec
EP Correction Request
 This form will be used by Employee Plan 'AIMS' to correct items on the AIMS Data Base. OP:EF:FS Internal Use
- 5903** **61517M** Each
 02/1987 Destroy Prev Issues Upon Rec
Numerical Card/Badge Record
 Form 5903 is used as a numerical record for all photo ID card/badges produced. HR:F:SPS Internal Use
- 5913** **61627J** Each
 05/1978 No Previous Issue
Bill of Sale
 This form will vest title in the purchasers of automobiles and other personal property which has been forfeited to the government. CI:P:B General Admin Public Use
- 5914** **42911U** Each
 05/1978 No Previous Issue
Release and Receipt of Property
 This form will provide the Service a receipt of seized property, which is returned to the owner or custodian. CI:RD:TD General Admin Public Use
- 5919** **42914B** Each
 08/1995 Destroy Prev Issues Upon Rec
Teller's Error Advice
 This form is used for reporting errors on forms filled out by collection personnel regarding the daily receipt of cash from taxpayers. CP:CO:C:SP Internal Use
- 5942** **24330X** Each
 01/1981 Destroy Prev Rev. Immediately
Reviewer's Report--Special Procedures Function
 Form 5942 is a multi-use form used by Special Procedures function (SPF) reviewers either to report the findings of a review and/or to request additional information. OP:CO:C:SP Internal Use
- 5943** **42930B** Each
 12/1987 Use/Issue Prev Issue First
Special Messenger Service
 Attached to envelope or package when special messenger service is required. HQ:SS:HS:CAM Internal Use
- 5948** **27840C** Each
 07/1988 Destroy Prev Issues Upon Rec
OPF Consistency File Input
 Form 5948 is used by management assistants to input revisions and corrections to the OPF (Organization Function, Program) code file. Reports Unit personnel complete the form and route it to the Computer Operations Branch for processing and subsequent release of various printed reports. R:R:M Internal Use
- 5966** **42954L** Each
 04/1996 Destroy Prev Issues Upon Rec
Civil Fraud Penalty (CFP) Report
 Form 5966 is used to monitor application of Civil Fraud Penalty. CP:EX:CS Internal Use
- 5986** **42972H** Each
 03/1978 Use/Issue Prev Issue First
Fair Labor Standards Act Time Record
 This form is used to record all time payable under the Fair Labor Standards Act occurring in a bi-weekly pay cycle. M:S:P:S Internal Use
- 5989** **42974D** Each
 11/1992 Destroy Prev Issues Upon Rec
Characteristics of Refund Returns
 This form is used to gather statistics regarding refund returns. Form is now on Service Center Cycle 13. CP:CI:R Internal Use
- 5991 A** **42977K** Each
 06/1981 Destroy Prev Issues Upon Rec
Affidavit
 Back-up Sheet for Form 5991 (Rev. 06/81) Affidavit will be used to secure testimony for EEO discrimination complaint investigation reports. C:EEO:C Internal Use
- 5991 B** **60145Q** Each
 09/1982 Destroy Prev Issues Upon Rec
Affidavit (Short Form)
 Form 5991-B is an affidavit form for short statements used in investigations of discrimination. C:EEO:C Internal Use
- 6014** **42996R** Each
 10/1988 Destroy Prev Issues Upon Rec
Authorization - Access to Third Party Records for Internal Revenue Service Employees
 Authorization from Taxpayer to third party for IRS employees to examine records. Re-numbered as a 4-digit form from Letter 995(DO) (7/77). Changes suggested per IRM Section 4082.1 to help secure the correct information from the third party. EX:E:D Tax Related Public Use
- 6018** **43000O** Each
 08/1983 Destroy Prev Issues Upon Rec
Consent to Proposed Adverse Action
 This form was used by an Organization or Plan to accept the proposed adverse action being taken by the Service. CP:EF:FC Tax Related Public Use
- 6019** **43001Z** Each
 02/1980 Destroy Prev Issues Upon Rec
Review Adjustments - Direct
 Form 6019 is a worksheet used by service center personnel to propose adjustments to fiscal year work plans. R:R:M Internal Use
- 6020** **43002K** Each
 02/1980 Destroy Prev Issues Upon Rec
Review Adjustments-Overhead
 Form 6020 is a worksheet used by service center personnel to propose adjustments to fiscal year work plans. CP:CO:FP Internal Use



The Who Are You FOIA Request

- A. So if an IRS agent serves you an IRS summons, you want to find out as much information about the agents as possible.
- B. If they violate any of your substantive rights, then in conjunction with section 1203 of the “Tax Reform Restructuring Act of 1998”, you may need to file a complaint with TIGTA, or Internal Affairs. If the violations are really extra ordinary with the FBI whose duty is to investigate wrong doings by those who work for the Treasury Department under Title 31 of the USC.
- C. We have helped a lot of people collect this information.
- D. There are certain items that are not available and are exempted from disclosure. But the items in this FOIA have been proven in the past to be obtainable.
- E. Again once you have exercised your right under the FOIA program you can then ask for the same information in discovery if your case should end up in criminal or civil court.
- F. The overall goal of our program is to make sure that you do not end up in jail, or even inside an actual courtroom.
- G. If you do not know your rights you waive them and one of your rights is to be able to obtain this type of information.

FREEDOM OF INFORMATION ACT REQUEST

To: Disclosure Officer
Re: (IRS Agent's Name), (IRS Agent's Rank)
Department of the Treasury
Internal Revenue Service
(district of IRS officer)
(district of IRS officer)

From: Name
address
address
Account # (SSN)

1. This is a request under the Freedom of Information Act, 5 USC 552.
2. This is my firm promise to pay fees and costs for locating, duplicating and reviewing the documents and information listed below. As per Reg. 601.702(F)(3)(I)(E), I am making this request in the classification of "other requestor." If costs are expected to exceed \$20.00, please send an estimate of the cost.
3. If some of this request is exempt from release, please send me those portions reasonably segregable and are not releasing.
4. Requestor is in need of the following information to ascertain if claimed Agent (IRS Agent's Name) is an employee of the United States of America or an employee of an agency of the United States of America and that he/she is acting within the bounds of his/her authority as such employee.
5. I understand the penalties provided in 5 USC 552(a)(i)(3) for requesting or obtaining access to records under false pretenses.
6. This request pertains to the years beginning with Agent (IRS Agent's Name) first employment with the Department of Treasury/IRS to the present year 2001.
7. Please send me copies of the following documents as they pertain to (IRS Agent's Name) personally, and or in his/her title role of (IRS Agent's Rank), all of which documents I understand have been designated by the Office of Personnel Management as public information about employees of the United States of America.
 - a. All document(s) that include, identify, and describe the present and past position (IRS Agent's Rank)s and occupational service of Agent (IRS Agent's Name).
 - b. All document(s) that include, identify, and describe the past and present grades of Agent (IRS Agent's Name).
 - c. All document(s) that include, identify, and describe the past and present annual salary, including Executive Ranks, and allowances and differentials of Agent (IRS Agent's Name).
 - d. All document(s) that include, identify, and describe present and past duty stations (including room numbers, shop designations, or other identifying information regarding buildings or places of employment of Agent (IRS Agent's Name).
 - e. All document(s) that include, identify, and describe Agent (IRS Agent's Name) position description, identification of job elements, and those performance standards (but not actual performance appraisals).
 - f. All document(s) that include, identify, and describe Agent (IRS Agent's Name) specific "G.S. number," the meaning of the abbreviation "G.S." and a description or explanation of the numbering system used for "G.S" classification.
 - g. The specific document(s) of appointment for Agent (IRS Agent's Name) to assert the title of "(IRS Agent's Rank)".

- h. The specific “delegation of authority” documents issued and applicable to Agent (IRS Agent’s Name) at his/her present position, at his/her present office, that cover all aspects of his/her job description.
- i. Any document that verifies the true identity of Agent (IRS Agent’s Name) as (IRS Agent’s Rank).
- j. Copies of any documents that exempt Agent (IRS Agent’s Name), or his/her division, from coming within the purview of the Freedom of Information Act, and Administrative Procedures Act.
- k. Provide me with the information of whether (IRS Agent’s Name) is the legal name or a pseudonym of the agent.

Dated: _____
Name, Requestor

Dated: _____
Notary Public

