

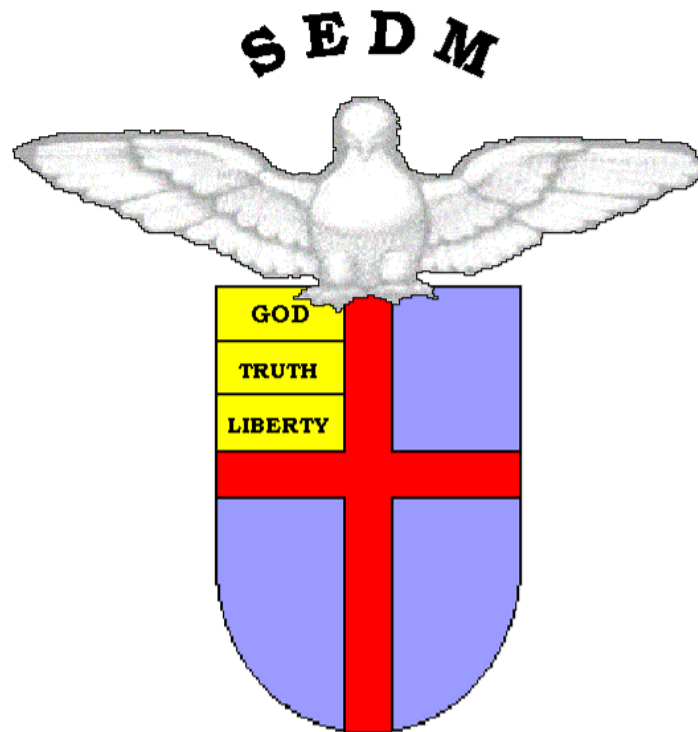
**IRS
SEMINAR
LEVEL TWO**

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WHAT ORGANIZATION IS THIS?
THIS ORGANIZATION HAS LESS THAN 1,000
EMPLOYEES WITH THE FOLLOWING STATISTICS;

1. **29 HAVE BEEN ACCUSED OF SPOUSAL ABUSE**
2. **7 HAVE BEEN ARRESTED FOR FRAUD**
3. **19 HAVE BEEN ACCUSED OF WRITING BAD CHECKS**
4. **117 HAVE BANKRUPTED AT LEAST TWO BUSINESSES**
5. **3 HAVE BEEN ARRESTED FOR ASSAULT**
6. **71 CANNOT GET A CREDIT CARD DUE TO BAD CREDIT**
7. **14 HAVE BEEN ARRESTED ON DRUG RELATED CHARGES**
8. **8 HAVE BEEN ARRESTED FOR SHOPLIFTING**
9. **21 ARE CURRENT DEFENDANTS IN LAWSUITS**
10. **84 IN 1998, ALONE WERE STOPPED FOR DUI**

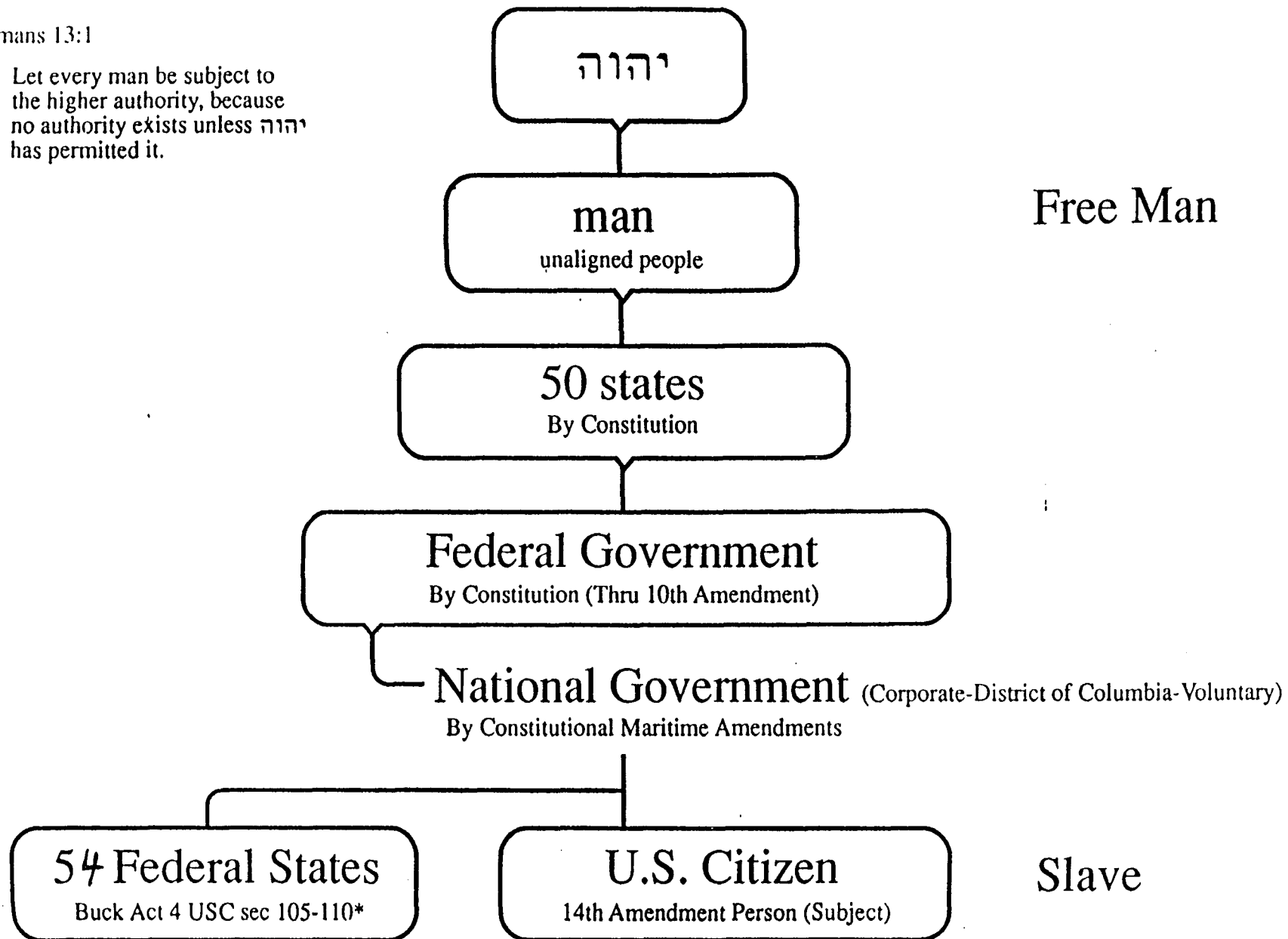
CAN YOU GUESS WHICH ORGANIZATION THIS IS?

It's the 535 members of the United States Congress!

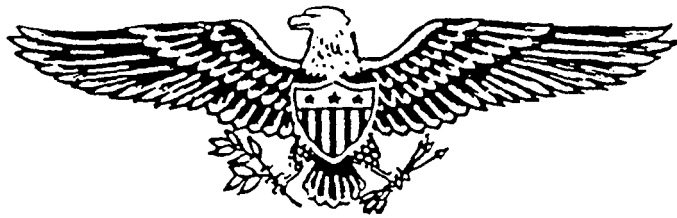
Order of Lawful Authority

Romans 13:1

Let every man be subject to the higher authority, because no authority exists unless יהוה has permitted it.



*31 CFR Ch. 1 (7-1-89 Edition) Part 51.2 & Part 52.2 Definitions



CONGRESS DECLARES BIBLE

“THE WORD OF GOD”

PUBLIC LAW 97-280—OCT. 4, 1982

Public Law 97-280
97th Congress

96 STAT. 1211

Joint Resolution

Authorizing and requesting the President to proclaim 1983 as the “Year of the Bible”.

Whereas the Bible, the Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed nation and people;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;

Whereas many of our great national leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—paid tribute to the surpassing influence of the Bible in our country’s development, as in the words of President Jackson that the Bible is “the rock on which our Republic rests”;

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the Scriptures in the lives of individuals, families, and societies;

Whereas this Nation now faces great challenges that will test this Nation as it has never been tested before; and

Whereas that renewing our knowledge of and faith in God through Holy Scripture can strengthen us as a nation and a people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate 1983 as a national “Year of the Bible” in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures.

Approved October 4, 1982.

Scriptures for America, P.O. Box 766, LaPorte, Colo. 80535

THE TEN PLANKS OF THE COMMUNIST MANIFESTO 1848 TO 1990's

Chart compiled by The Jubilee Staff

PLANK	COMMUNISM	DEMOCRACY	ACCOMPLISHED BY
ONE	Abolition of property (rights)* in land and application of all rents (taxes) of land to public purposes. <small>*(Parenthetical remarks by Jubilee)</small>	Zoning, school tax, (from property "rents") Equitable interest in land, no alodial title No freeholders	14th Amend. U.S. Const. 1868 Title 17 health and safety code
TWO	A heavy progressive or graduated income tax.	501 (c) (3) corporate churches/businesses Income tax -IRS (Title 26) Fed. tax can take up to 88% of income Social Security Public policy (state police powers)	16th Amend. U.S. Const. 1913 Social Sec. act 1936 JHR 192, 1933
THREE	Abolition of all right of inheritance.	Limited inheritance via inheritance tax	Estate tax 1916
FOUR	Confiscation of the property of all emigrants and rebels.	Confiscation of drug-merchant property "War on drugs." IRS Confiscation of private property without due process RICO Act (Racketeering Influenced & Corrupt Organizations) Imprisonment of "terrorist" and those who write or speak against the government.	Public law 99-570 1986 Established 1970 Sedition Act. 1798 also used in 1940's and 1988
FIVE	Centralization of credit in the hands of the state, by means of a national bank with state capital and an exclusive monopoly.	Federal Reserve Banks. All local banks use credit & are members of Fed. Reserve System and regulated by the U.S. Govt. Federal Deposit Insurance Corporation (FDIC)	Federal Reserve Act 1913 Federal Reserve Act 1933
SIX	Centralization of the means of communication and transport in the hands of the state.	Interstate Commerce Commission Federal Communication Commission (FCC) US Civil Aeronautics Federal Aviation Agency (FAA)	ICC Act 1887 The Commissions Act 1934 Est. 1938 Est. 1958
SEVEN	Extension of factories and instruments of production owned by the state; the bringing into cultivation of wastelands, and the improvement of the soil generally in accordance with a common plan.	Anti-trust Acts Dept. of Commerce and Labor Dept. of Agriculture <u>Dept. of Interior</u> <small>*Bureau of Land Management *Forest Service *Bureau of Reclamation *Bureau of Mines *Ntl. Park Service *Fish & Wildlife Service.</small>	Established 1902 Established 1903 Established 1862 Established 1849
EIGHT	Equal liability of all to labor (for the Ntl. debt). Establishment of industrial armies, especially for agriculture.	"Two income families" because of inflation and Ntl. debt. Women's Suffrage Affirmative Action Socialist Unions Intl. Workers Of The World (Chicago)	Women in the work place 1920's 19th Amend. U.S. Const. 1920 Civil Rights Act 1964 Established 1869 Established 1905
NINE	Combination of agriculture with manufacturing industries; gradual abolition of the distinction between town and country, by a more equitable distribution of the population over the country.	Farms lost to "the suburbs" and manufacturing/commercialism. Perverted technology/corporate farms. <i>(Nothing to eat on stupidity street!)</i> National Farmers Alliance and Industrial Union	1880 - 1990's (Title 17 "zoning") Took hold 1910 -1990's 1870's - 1880's
TEN	Free education for all children in public schools. Abolition of children's factory labor in its present form. Combination of education with industrial production.	State run, tax financed schools. Socialized/progressive education Child Labor Act, Pennsylvania Children now work with state approval. Abolition of private apprenticeships. Creation of state controlled apprenticeships.	Horace Mann 1837-1848 John Dewey 1870 -1910 Established 1848 Fair Labor Standards Act 1937

BEWARE OF THE NEW WORLD ORDER!

FOR The Other side of the Coin
By Hamilton Fish 1976

piled commission upon commission, bureau upon bureau, and taxes upon taxes, and set up the greatest concentration of alphabetical organizations in Washington ever conceived. Shades of Thomas Jefferson, who became the first forgotten man!

What now of the "great white father," invincible in peace but invisible in World War I? What about the ex-Jeffersonian Democrat? Why, he would say he had progressed with the times. What a progression!

From a Jeffersonian Democrat, which signifies a liberal, he progressed rapidly to be an extreme liberal, then a radical, and finally to a Fabian Socialist and an apologist for Communists.

Franklin D. Roosevelt admitted that he had Communist friends and was the friend of the red dictator, Joseph Stalin, the world's greatest mass murderer. FDR himself was not a Communist. His religious faith lasted to the day of his death. The charge that he was a Fabian Socialist may arouse some New Dealers to rush to his defense, but the record cannot be ignored or washed away.

The New Deal, with its huge spending program, was certainly socialistic; it paved the road for collectivism and state socialism. When a president of the United States out-socializes Norman Thomas and recommends a limit of \$25,000 on individual salaries, that in itself is a hallmark of Fabian socialism. But believe it or not, he approved the original Roosevelt-Morgenthau tax bill which the Democratic Ways and Means Committee threw into the wastebasket. This bill called for a limit of \$12,000 on individual salaries and a 99 percent tax on large incomes. That bill out-socialized socialism and was as confiscatory as any Communist measure. I still have in my possession my speech in Congress exposing this most outrageous, un-American, socialistic and demagogic of all of FDR's New Deal policies.

His double-crossing and tricking of the American people in sending a secret war ultimatum to the Japanese

government (as set forth in detail in Chapter 15) and in making Admiral Kimmel and General Short scapegoats for the disaster at Pearl Harbor, to cover up his own direct responsibility, is a black mark in American history. Admiral Halsey was right when he said "scapegoats and naval martyrs" were made to protect the higher-ups.

James D. Warburg, referring to Roosevelt, said, "He is undeniably and shockingly indifferent and ignorant about anything that relates to finances. This is not, I think, because he is incapable of grasping these subjects, but because he does not like them and therefore refuses to make any great effort to understand them. FDR was largely governed by his *personal emotional desires, predilections and prejudices.*" (Italics mine.)

This would explain his vindictiveness against all those who opposed the New Deal or his prowar objectives. His personality cult came into being after his election to a third term as president. He became the first president to attain a third term and he felt now that he was all-powerful. Lord Acton's famous dictum that "power tends to corrupt; absolute power corrupts absolutely," is confirmed by history. After breaking the traditional American third-term barrier, FDR fell into the tangled web Lord Acton described. His personality cult grew steadily in proportion to the vast increase of his war powers. His unprecedented war ultimatum to Japan is a typical example of power's corrupting influence, and his actions at the fatal and disastrous Yalta Conference is another ghastly demonstration that absolute power corrupts absolutely.

FDR in his third term had accumulated so much power from Congress that he deluded himself that he was indispensable, that he alone was greater than the Congress, the Supreme Court and the American people. The next step was to ignore and bypass the Congress, the Supreme Court and the American people.

Senator Hiram Johnson, former governor of California, turned down the vice presidency under Harding, which,

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WESTERN UNION

NEWCOMB CARLTON, PRESIDENT

J. C. WILLEVER, FIRST VICE-PRESIDENT

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NB256 622 GOVT 1/140=SD WASHINGTON DC 10 850P

THE HONORABLE GOVERNOR OF THE STATE OF OHIO=

COLUMBUS OHIO= *545 560 Neil House*

THE FOLLOWING EXECUTIVE ORDER NUMBER SIX ZERO SEVEN THREE DATED MARCH TENTH NINETEEN HUNDRED THIRTY THREE ENTITLED QUOTE REGULATIONS CONCERNING THE OPERATION OF BANKS ENQUOTE IS QUOTED FOR THE INFORMATION AND GUIDANCE OF YOURSELF AND THE STATE SUPERINTENDENT OF BANKING STOP QUOTE BY VIRTUE OF THE AUTHORITY VESTED IN ME BY SECTION FIVE PARENTHESIS LETTER B PARENTHESIS OF THE ACT OF OCTOBER SIX COMMA NINETEEN HUNDRED AND SEVENTEEN PARENTHESIS FORTY STAT PERIOD CAPITAL LETTER L COMMA PERIOD FOUR ELEVEN PARENTHESIS AS AMENDED BY THE ACT OF MARCH NINTH COMMA NINETEEN HUNDRED THIRTY THREE AND BY SECTION FOUR OF THE SAID ACT OF MARCH NINTH COMMA NINETEEN HUNDRED THIRTY THREE COMMA AND BY VIRTUE OF ALL OTHER AUTHORITY VESTED IN ME COMMA I HEREBY ISSUE THE FOLLOWING EXECUTIVE ORDER PERIOD PARAGRAPH THE SECRETARY OF THE TREASURY IS AUTHORIZED AND EMPOWERED UNDER=

↑↑

Moro

76012

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Received at 33 East Gay St., Columbus, Ohio. ALWAYS OPEN

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1NB256 2/161 SD WASHINGTON DC THE HON GOVERNOR OF THE STAT

OF OHIO COLUMBUS OHIO=

SUCH REGULATIONS AS HE MAY PRESCRIBE TO PERMIT ANY MEMBER BANK OF THE FEDERAL RESERVE SYSTEM AND ANY OTHER BANKING INSTITUTION ORGANIZED UNDER THE LAWS OF THE UNITED STATES COMMA TO PERFORM ANY OR ALL OF THEIR USUAL BANKING FUNCTIONS COMMA EXCEPT AS OTHERWISE PROHIBITED PERIOD PARAGRAPH THE APPROPRIATE AUTHORITY HAVING IMMEDIATE SUPERVISION OF BANKING INSTITUTIONS IN EACH STATE OR ANY PLACE SUBJECT TO THE JURISDICTION OF THE UNITED STATES IS AUTHORIZED AND EMPOWERED UNDER SUCH REGULATIONS AS SUCH AUTHORITY MAY PRESCRIBE TO PERMIT ANY BANKING INSTITUTION IN SUCH STATE OR PLACE COMMA OTHER THAN BANKING INSTITUTIONS COVERED BY THE FOREGOING PARAGRAPH COMMA TO PERFORM ANY OR ALL OF THEIR USUAL BANKING FUNCTIONS COMMA EXCEPT AS OTHERWISE PROHIBITED PERIOD PARAGRAPH ALL BANKS WHICH ARE MEMBERS OF THE FEDERAL RESERVE SYSTEM COMMA DESIRING TO REOPEN FOR THE PERFORMANCE OF ALL USUAL AND NORMAL BANKING FUNCTIONS COMMA EXCEPT AS OTHERWISE PROHIBITED COMMA SHALL APPLY FOR A LICENSE THEREFOR TO THE SECRETARY OF THE TREASURY PERIOD=

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NEWCOMB CARLTON, PRESIDENT

J. C. WILLEVER, FIRST VICE-PRESIDENT

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Received at 33 East Gay St., Columbus, Ohio. ALWAYS OPEN

1933 MAR 10 PM 10 14

=NB256/3/161 SD WASHINGTON DC THE HON GOVERNOR OF THE STATE OF OHIO COLUMBUS OHIO=

SUCH APPLICATION SHALL BE FILED IMMEDIATELY THROUGH THE FEDERAL RESERVE BANKS PERIOD THE FEDERAL RESERVE BANK SHALL THEN TRANSMIT SUCH APPLICATIONS TO THE SECRETARY OF THE TREASURY PERIOD LICENSES WILL BE ISSUED BY THE FEDERAL RESERVE BANK UPON APPROVAL OF THE SECRETARY OF THE TREASURY PERIOD THE FEDERAL RESERVE BANKS ARE HEREBY DESIGNATED AS AGENTS OF THE SECRETARY OF THE TREASURY FOR THE RECEIVING OF APPLICATION AND THE ISSUANCE OF LICENSES IN HIS BEHALF AND UPON HIS INSTRUCTIONS PERIOD PARAGRAPH UNTIL FURTHER ORDER COMMA NO INDIVIDUAL COMMA PARTNERSHIP COMMA ASSOCIATION COMMA OR CORPORATION COMMA INCLUDING ANY BANKING INSTITUTION COMMA SHALL EXPORT OR OTHERWISE REMOVE OR PERMIT TO BE WITHDRAWN FROM THE UNITED STATES OR ANY PLACE SUBJECT TO THE JURISDICTION THEREOF ANY GOLD COIN COMMA GOLD BULLION COMMA OR GOLD CERTIFICATES COMMA EXCEPT IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY OR UNDER LICENSE ISSUED BY THE SECRETARY OF THE TREASURE PERIOD PARAGRAPH NO PERMISSION TO ANY BANKING INSTITUTION TO PERFORM ANY BANKING FUNCTIONS=

THE QUICKEST, SUREST AND SAFEST WAY TO SEND MONEY IS BY TELEGRAPH OR CABLE

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WESTERN UNION

NEWCOMB CARLTON, PRESIDENT

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Received at 33 East Gay St., Columbus, Ohio. ALWAYS OPEN. 1933 MAR 10 PM 10 14

NB256/4/160 SD WASHINGTON DC THE HON GOVERNOR OF THE STATE

OF OHIO COLUMBUS OHIO=

SHALL AUTHORIZE SUCH INSTITUTION TO PAY OUT ANY GOLD COIN
 COMMA GOLD BULLION OR GOLD CERTIFICATES EXCEPT AS AUTHORIZED
 BY THE SECRETARY OF THE TREASURY COMMA NOR TO ALLOW
 WITHDRAWAL OF ANY CURRENCY FOR HOARDING COMMA NOR TO ENGAGE
 IN ANY TRANSACTION IN FOREIGN EXCHANGE EXCEPT SUCH AS MAY BE
 UNDERTAKEN FOR LEGITIMATE AND NORMAL BUSINESS REQUIREMENTS
 COMMA FOR REASONABLE TRAVELING AND OTHER PERSONAL
 REQUIREMENTS COMMA AND FOR THE FULFILLMENT OF CONTRACTS
 ENTERED INTO PRIOR TO MARCH SIXTH COMMA NINETEEN HUNDRED
 THIRTY THREE PERIOD PARAGRAPH EVERY FEDERAL RESERVE BANK IS
 AUTHORIZED AND INSTRUCTED TO KEEP ITSELF CURRENTLY INFORMED
 AS TO TRANSACTIONS IN FOREIGN EXCHANGE ENTERED INTO OR
 CONSUMMATED WITHIN ITS DISTRICT AND SHALL REPORT TO THE
 SECRETARY OF THE TREASURY ALL TRANSACTIONS IN FOREIGN EXCHANGE
 WHICH ARE PROHIBITED PERIOD SIGNED FRANKLIN D ROOSEVELT STOP
 THE WHITE HOUSE COMMA MARCH TENTH COMMA NINETEEN HUNDRED
 THIRTY THREE PERIOD ENQUOTE STOP. A CERTIFIED COPY OF THIS
 EXECUTIVE ORDER IS BEING MAILED TO YOU=

CORDELL HULL SECRETARY OF STATE.

March 8, 1996

The White House

“TO THE CONGRESS OF THE UNITED STATES”

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared on March 15, 1995, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) is to continue in effect beyond March 15, 1996, to the *Federal Register* for publication. This emergency is separate from that declared on November 14, 1979, in connection with the Iranian hostage crisis and therefore requires separate renewal of emergency authorities.

The factors that led me to declare a national emergency with respect to Iran on March 15, 1995, have not been resolved. The actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and its acquisition of weapons of mass destruction and the means to deliver them, continue to threaten the national security, foreign policy, and economy of the United States. Accordingly, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the March 15, 1995, declaration of emergency.

William J. Clinton

Opening Statement of Rep. Ron Paul, Hearings on Russian Money Laundering, House Committee on Banking and Financial Services, September 22, 1999

Chairman Leach, ranking member LaFalee, thank you for holding a hearing so quickly in response to the reports of scandal regarding the Bank of New York and allegations of laundering of International Monetary Fund payments to Russia.

An examination of the objective facts illustrates clearly that our current approach regarding money laundering has failed. It also questions the wisdom of more unfunded government reporting requirements--and attacks on consumer privacy such as the Know Your Customer proposal (still required under the Federal Reserve's compliance manual of the Bank Secrecy Act despite overwhelming public opposition).

Overwhelmed with millions of bank forms required to detect money laundering, U.S. law enforcement officials did not act for months on British leads (initiated by a kidnapping charge) of money laundering at the Bank of New York. The bank did not file any Suspicious Activity Reports on the questionable accounts until after they were notified that the accounts were under law enforcement investigation.

Given that the IMF claims not to know what happened to the money and admits that the Russian central bank lied to them, we should not allow the IMF to hide behind the shallow defense that there is no evidence of wrongdoing. When using taxpayer funds, we must demand a higher standard: IMF, World Bank and U.S. Treasury officials should provide

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by the private sector and by governments."

Economists Kurt Schuler and George A. Selgin ("Replacing Poteinki Capitalism: Russia's Need for a Free-Market Financial System, Cato Institute Policy Analysis No.348, June 7, 1999) point out, "Approaches that do not eliminate Russia's socialist monetary institutions are unlikely to put the monetary system on a sound basis for the long term" and explain that the Russian central bank, one of the world's oldest, directs credit to particular favored firms though the banking system and that past loans to the government served as a drug helping to maintain an unhealthy system. We need

evidence that no public funds were siphoned off and that no officials profited from the conversion of the high-yield Russian GKO bonds into dollars just days before the default or from other public funds.

When Allan Meltzer, head of the congressional commission on the IMF, asked recently whether the use of IMF funds could be traced, Joint Economic Committee staffer Chris Frenze replied that someone "would have to be rather an incompetent criminal to conduct their affairs in such a way that it could be traced." We cannot justify taxpayer money going to an organization with such a lack of accountability.

In the (Russian) St. Petersburg Times ("Skuratov Says IMF Billions Sold on the Sly," September 17, 1999), Russian Prosecutor General Yury Skuratov charged in an interview that the IMF money funded profitable insider trading. He quoted from a memo President Yeltsin refused to accept, "An analysis of the Central Bank's use of the account where the IMF stabilization loan was deposited showed that \$4.4 billion was stolen from that account between July 23, 1998 and August 17, 1998. Of that money, \$3.9 billion was sold directly to Russian and foreign banks, bypassing the trading session at the Moscow Interbank Currency Exchange." He claimed only \$571 million went to support the ruble.

I am concerned that Treasury Secretary Larry Summers cites Anders Aslund, senior associate at the Carnegie Endowment for International Peace, given his controversial views on the benefits of encouraging bribery! He clearly states in his article "Russia's Collapse" in the current issue of Foreign Affairs, "As Andrei Shleifer of Harvard and Robert W. Vishny of the University of Chicago have observed, the best way of

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fighting corruption is encouraging competition in bribery [emphasis added]. August's financial crisis was a logical outcome of the oligarch's war, as they tried to maintain their high and dubious incomes by any means. In the end, the Russian state could no longer deliver enough cash to satisfy their ravenous appetites. The crash radically reduced the amount of money that could be made on the state--and thus the power of the corrupt businessmen."

George Washington University professor Janine Wedel has warned about the appearance of corruption surrounding Andrei Sbleifer heading the Harvard Institute for International Development ("The Harvard Boys Do Russia," the Nation, June 1, 1998) and the effects of collusion in her book Collision and Collusion: The Strange case of Western Aid to Eastern Europe 1989-1998. It seems the best course for avoiding any perception problems would be more transparency of the activities of U.S. officials.

Our IMF/Treasury policies are not only a waste of taxpayer dollars, they are often counterproductive. "German officials both in and out of office are infuriated by the manner in which the U.S. Treasury rewrites history to paper over its own colossal blunders mainly to service financial interests on Wall Street," writes Klaus C. Engelen, "American Arrogance" in the current issue of *The International Economy*. He quotes Jurgen Stark, deputy to the Bundesbank president, as confronting IMF Managing Director Michel Camdessus, "I do not concur with the argument that exceptionally high IMF financing is justified in financial crisis situations with systemic or contagion risks...Starting with the Mexican crisis in 1994/95, [IMF financing policy] might have contributed to moral hazard and encouraged reckless financial behavior, both

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I agree with the Investor's Business Daily editorial on September 1, 1999, "Get Rid Of The IMF." when they said, "The only way to stop [the IMF] from sucking up scarce resources to waste on favored nations is to end it. Some in Washington advocate reforming the IMF. But it's useless to reform an outfit with such a poor record. Abolish it now." Passage of HR 1147, the Bretton Woods Sunset act is important and urgently needed as the best way to prevent more corruption.

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FOREIGN AFFAIRS

1922 1998



75TH ANNIVERSARY

The Global Economy and the New World Order

PREPARED FOR
DR. ERIK PRATT

CARROLL COLLEGE
DEPARTMENT OF POLITICAL SCIENCE
WORLD ORDER & INTERDEPENDENCE

WITH SELECTIONS FROM:
FOREIGN AFFAIRS
FOREIGN POLICY
THE NATIONAL INTEREST

A FOREIGN AFFAIRS CUSTOM ANTHOLOGY

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The Court today says that it "recogniz[es] that the authority vested in tax collectors may be abused," *ante* 420 U.S. 163 at 146, but it is nonetheless unable to find any statutory limitation upon that authority. The only "protection" from abuse that Congress has provided, it says, is "placing the federal courts between the Government and the person summoned," *ante* at 151. But that, of course, is no protection at all, unless the federal courts are provided with a measurable standard when asked to enforce a summons. I agree with the Court of Appeals that Congress has provided such a standard, and that the standard was not met in this case. Accordingly, I respectfully dissent from the opinion and judgment of the Court.

United States v. Biscaglia
420 U.S. 141

Congress has carefully restricted the summons power to certain rather precisely delineated purposes:

ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability.

26 U.S.C. § 7602. This provision speaks in the singular -- referring to "the correctness of any return" and to "the liability of any person." The delineated purposes are jointly denominated an "inquiry" concerning "the person liable for tax or required to perform the act," and the summons is designed to facilitate the "[e]xamination of books and witnesses" which "may be relevant or material to such inquiry." 26 U.S.C. § 7602(1), (2), and (3). This language indicates unmistakably that the summons power is a tool for the investigation of particular taxpayers.

By contrast, the general duties of the IRS are vastly broader than its summons authority. For instance, § 7601 mandates a "[c]anvass of districts for taxable persons and objects." Unlike § 7602, the canvassing provision 420 U.S.

164 speaks broadly and in the plural, instructing Treasury Department officials

to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects with respect to which any tax is imposed.

(Emphasis added.)

Virtually all "persons" or "objects" in this country "may," of course, have federal tax problems. Every day, the economy generates thousands of sales, loans, gift, purchases, leases, deposits, mergers, wills, and the like which -- because of their size or complexity -- suggest the possibility of tax problems for somebody. Our economy is "tax relevant" in almost every detail. Accordingly, if a summons could issue for any material conceivably relevant to "taxation" -- that is, relevant to the general duties of the IRS -- the Service could use the summons power as a broad research device. The Service could use that power methodically to force disclosure of whole categories of transactions and closely monitor the operations of myriad segments of the economy on the theory that the information thereby accumulated might facilitate the assessment and collection of some kind of a federal tax from somebody. Cf. *United States v. Humble Oil & Refining Co.*, 488 F.2d 953. And the Court's opinion today seems to authorize exactly that.

But Congress has provided otherwise. The Congress has recognized that information concerning certain classes of transactions is of peculiar importance to the sound administration of the tax system, but the legislative solution has not been the conferral of a limitless summons power. Instead, various special purpose statutes have been written to require the reporting or disclosure of particular kinds of transactions. E.g., 26 U.S.C. §§ 6049, 420 U.S. 165; 6051-6053, 31 U.S.C. §§ 1081-1083, 1101, and 1121-1122, and 31 U.S.C. §§ 1141-1143 (1970 ed., Supp. III). Meanwhile, the scope of the summons power itself has been kept narrow. Congress has never made that power coextensive with the Service's broad and general canvassing duties set out in § 7601. Instead, the summons power has always been restricted to the particular purposes of individual investigation, delineated in § 7602. {1}

Thus, a financial or economic transaction is not subject to disclosure through summons merely because it is large or unusual or generally "tax relevant" -- but only when the summoned information is reasonably pertinent to an ongoing investigation of somebody's tax status. This restriction checks possible abuses of the summons power in two rather obvious ways. First, it guards against an 420 U.S. 166 overbroad summons by allowing the enforcing court to prune away those demands which are not relevant to the particular, ongoing investigation. See, e.g., *First Nat. Bank of Mobile v. United States*, 160 F.2d 532, 533-535. Second, the restriction altogether prohibits a summons which is wholly unconnected with such an investigation

GAO

Testimony

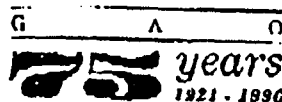
Before the Subcommittee on Government Management,
Information and Technology, Committee on Government
Reform and Oversight, House of Representatives

For Release on Delivery
Expected at
1:30 p.m.
Wednesday,
March 6, 1996

IRS OPERATIONS

Significant Challenges in
Financial Management and
Systems Modernization

Statement of Gene L. Dodaro
Assistant Comptroller General
Accounting and Information Management Division



Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the results of our fiscal year 1995 financial audit of the Internal Revenue Service (IRS)—our most recent completed audit—and our reports evaluating IRS' Tax Systems Modernization (TSM) effort. Last year, we issued two major assessments concerning IRS' guardianship of federal revenues and its ability to function efficiently in an increasingly high technology environment. I am submitting these reports for the record: Financial Audit: Examination of IRS' Fiscal Year 1994 Financial Statements (GAO/AIMD-95-141, August 4, 1995) and Tax Systems Modernization: Management and Technical Weaknesses Must Be Corrected if Modernization Is To Succeed (AIMD-95-156, July 26, 1995).

These reports

- (1) highlighted a number of serious technical and managerial problems that IRS must directly address to make greater progress in both of these areas;
- (2) discussed actions being taken by IRS to strengthen its operations, and
- (3) presented numerous specific GAO recommendations for needed additional improvements.

IRS agreed with all our recommendations and committed itself to taking the corrective measures necessary to improve its financial management and information technology capability and operations. We currently are in the process of auditing IRS' fiscal year 1995 financial statements and evaluating IRS' response to the recommendations we made regarding its TSM program. We discuss each of these areas in the following sections:

Financial Management Weaknesses Persist

→ For the last 3 fiscal years,¹ we have been unable to express an opinion on IRS' financial statements because of the pervasive nature of its financial management problems. We were unable to express an opinion on IRS' financial statements for fiscal year 1994 for the following five primary reasons.

Get →

¹Financial Audit: Examination of IRS' Fiscal Year 1992 Financial Statements (GAO/AIMD-93-2, June 16, 1993); Financial Audit: Examination of IRS' Fiscal Year 1993 Financial Statements (GAO/AIMD-94-15, June 16, 1994); and Financial Audit: Examination of IRS' Fiscal Year 1994 Financial Statements (GAO/AIMD-95-141, August 4, 1995).

- • One, the amount of total revenue of \$1.3 trillion reported in the financial statements could not be verified or reconciled to accounting records maintained for individual taxpayers in the aggregate.
- • Two, amounts reported for various types of taxes collected, for example, social security, income, and excise taxes, could also not be substantiated.
- • Three, we could not determine from our testing of IRS' gross and net accounts receivable estimates of over \$69 billion and \$35 billion, respectively, which include delinquent taxes, whether those estimates were reliable.
- • Four, IRS continued to be unable to reconcile its Fund Balance With Treasury accounts.
- • Five, we could not substantiate a significant portion of IRS' \$2.1 billion in nonpayroll expenses included in its total operating expenses of \$7.2 billion, primarily because of lack of documentation. However, we could verify that IRS properly accounted for and reported its \$5.1 billion of payroll expenses.

I guess they're
OK after all.

To help IRS resolve these issues, we have made dozens of recommendations in our financial audit reports dating back to fiscal year 1992. In total, we have made 59 recommendations on issues covering such areas as tax revenue, administrative costs, and accounts receivable. While IRS has begun to take action on many of our recommendations, as of the date of our last report—August 4, 1995—it had fully implemented only 13 of our 59 recommendations.

IRS has made some progress in responding to the problems we identified in our previous audits. However, IRS needs to intensify its efforts in this area. IRS needs to develop a detailed plan with explicit, measurable goals and a set timetable for action, to attain the level of financial reporting and controls needed to effectively manage its massive operations and to reliably measure its performance.

The sections below discuss these issues in greater detail.

Issues With Revenue

Gotchd. →
23C is prepared
from RACS, according
to IRS FOIA answers.

IRS' financial statement amounts for revenue, in total and by type of tax, were not derived from its revenue general ledger accounting system (RACS) or its master files of detailed individual taxpayer records. This is because RACS did not contain detailed information by type of tax, such as individual income tax or corporate tax, and the master file cannot summarize the taxpayer information needed to support the amounts identified in RACS. As a result, IRS relied on alternative sources, such as Treasury schedules, to

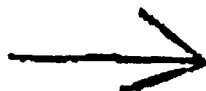
obtain the summary total by type of tax needed for its financial statement presentation.

IRS asserts that the Treasury amounts were derived from IRS records; however, neither IRS nor Treasury's records maintained any detailed information that we could test to verify the accuracy of these figures. As a result, to substantiate the Treasury figures, we attempted to reconcile IRS' master files—the only detailed records available of tax revenue collected—with the Treasury records. We found that IRS' reported total of \$1.3 trillion for revenue collections, which was taken from Treasury schedules, was \$10.4 billion more than what was recorded in IRS' master files. Because IRS was unable to satisfactorily explain, and we could not determine the reasons for this difference, the full magnitude of the discrepancy remains uncertain.

Massive
Fraud



In addition to the difference in total revenues collected, we also found large discrepancies between information in IRS' master files and the Treasury data used for the various types of taxes reported in IRS' financial statements. Some of the larger reported amounts for which IRS had insufficient support were \$615 billion in individual taxes collected—this amount was \$10.8 billion more than what was recorded in IRS' master files \$433 billion in social insurance taxes (FICA) collected—this amount was \$5 billion less than what was recorded in IRS' master files; and \$148 billion in corporate income taxes—this amount was \$6.6 billion more than what was recorded in IRS' master files. Thus, IRS did not know and we could not determine if the reported amounts were correct. These discrepancies also further reduce our confidence in the accuracy of the amount of total revenues collected.



Despite these problems, we were able to verify that IRS' reported total revenue collections of \$1.3 trillion agreed with tax collection amounts deposited at the Department of the Treasury. However, we did find \$239 million of tax collections recorded in IRS' RACS general ledger that were not included in reported tax collections derived from Treasury data.

In addition to these problems, we could not determine from our testing the reliability of IRS' projected estimate for accounts receivable. As of September 30, 1994, IRS reported an estimate of valid receivables of

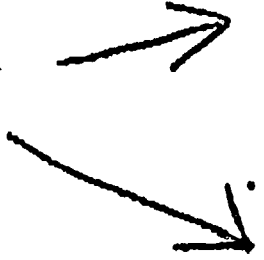
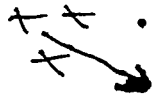
\$69.2 billion,² of which \$35 billion³ was deemed collectible. However, in our random statistical sample of accounts receivable items IRS tested, we disagreed with IRS on the validity of 19 percent⁴ of the accounts receivable and the collectibility of 17 percent⁵ of them. Accordingly, we cannot verify the reasonableness of the accuracy of the reported accounts receivable.

The Courts
Accept ALL
IRS Documents
As Correct.

Inadequate internal controls, especially the lack of proper documentation of transactions, resulted in IRS continuing to report unsupported revenue information. In some cases, IRS did not maintain documentation to support reported balances. In other cases, it did not perform adequate analysis, such as reconciling taxpayer transactions to the general ledger, to ensure that reported information was reliable.

We found several internal control problems that contributed to our inability to express an opinion on IRS' financial statements. To illustrate,

Important



- IRS was unable to provide adequate documentation for 111 items, or 68 percent, in our random sample of 163 transactions from IRS' nonmaster file. The nonmaster file is a database of taxpayer transactions that cannot be processed by the two main master files or are in need of close scrutiny by IRS personnel. These transactions relate to tax years dating as far back as the 1960s. During fiscal year 1994, approximately 438,000 transactions valued at \$7.3 billion were processed through the nonmaster file. Because of the age of many of these cases, the documentation is believed to have been destroyed or lost.
- We sampled 4,374 statistically projectable transactions posted to taxpayer accounts. However, IRS was unable to provide adequate documentation, such as a tax return, for 524 transactions, or 12 percent. Because the documentation was lost, physically destroyed, or, by IRS policy, not maintained, some of the transactions supporting reported financial balances could not be substantiated, impairing IRS' ability to research any discrepancies that occur.
- IRS is authorized to offset taxpayer refunds with certain debts due to IRS and other government agencies. Before refunds are generated, IRS policy

¹The range of IRS' confidence interval, at a 95-percent confidence level, is that the actual amount of valid accounts receivable as of September 30, 1994, was between \$66.1 billion and \$72.3 billion.

²The range of IRS' confidence interval, at a 95-percent confidence level, is that the actual amount of collectible accounts receivable as of September 30, 1994, was between \$34 billion and \$36 billion.

³The range for our confidence interval, at a 95-percent confidence level, is that the actual amount of the validity exceptions as of September 30, 1994, was between 14.5 percent and 24.2 percent.

⁴The range for our confidence interval, at a 95-percent confidence level, is that the actual amount of the collectibility exceptions as of September 30, 1994, was between 13.1 percent and 22.5 percent.

requires that reviews be performed to determine if the taxpayer has any outstanding debts to be satisfied. For expedited refunds, IRS must manually review various master files to identify outstanding debts. However, out of 358 expedited refunds tested, we identified 10 expedited refunds totaling \$173 million where there were outstanding tax debts of \$10 million, but they did not offset the funds. Thus, funds owed could have been collected but were not.

IRS could not provide documentation to support \$6.5 billion in contingent liabilities reported as of September 30, 1994. Contingent liabilities represent taxpayer claims for refunds of assessed taxes which IRS management considers probable to be paid. These balances are generated from stand-alone systems, other than the master file, that are located in two separate IRS divisions. Because these divisions could not provide a listing of transactions for appropriate analysis, IRS did not know, and we could not determine, the reliability of these balances.

- An area that we identified where the lack of controls could increase the likelihood of loss of assets and possible fraud was in the reversal of refunds. Refunds are reversed when a check is undelivered to a taxpayer, an error is identified, or IRS stops the refund for further review. In many cases, these refunds are subsequently reissued. If the refund was not actually stopped by Treasury, the taxpayer may receive two refunds. In fiscal year 1994, IRS stopped 1.2 million refunds totaling \$3.2 billion. For 183 of 244, or 75 percent of our sample of refund reversals, IRS was unable to provide support for who canceled the refund, why it was canceled, and whether Treasury stopped the refund check. Service center personnel informed us that they could determine by a code whether the refund was canceled by an internal IRS process or by the taxpayer, but, as a policy, no authorization support was required, nor did procedures exist requiring verification and documentation that the related refund was not paid.

With regard to controls over the processing of returns, we also found weaknesses. During fiscal year 1994, IRS processed almost 1 billion information documents and 200 million returns. In most cases, IRS processed these returns correctly. However, we found instances where mishandling of taxpayer information caused additional burden on the taxpayer and decreased IRS' productivity. In many cases, the additional taxpayer burden resulted from IRS' implementation of certain enforcement programs it uses to ensure taxpayer compliance, one of which is the matching program. This program's problems in timely processing cause additional burden when taxpayers discover 15 months to almost 3 years after the fact that they have misreported their income and must pay additional taxes plus interest and penalties.

ARE YOU A MONEY LAUNDERER?

Money laundering is the new “cult” crime – all pervasive, all embracing – and all guilt inducing. **AND everyone is guilty!**

But what IS money laundering by legal definition?

**** The Money Laundering Control Act states that it is illegal to make any transaction with the proceeds of specified unlawful activity: a) with the intent to promote the carrying on of specified activity or: b) knowing that the transaction is designed in whole or part to (1) conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity: or (2) to avoid a transaction reporting requirement under State or Federal law.**

So, the primary question is: “What falls within the bounds of specified illegal activity?” Of course, filing fraudulent tax returns is illegal but you can become a money launderer much easier than that. If you take some old household goods down to the nearest weekend market in the hope of raising some ready cash then you are undoubtedly a money launderer – unless, of course, you are intending to report the proceeds to all interested government agencies on all the proper, approved forms.



These agencies would want you to report any economic transaction. If you sell your old computer and you pocket the cash, you have committed an illegal economic transaction by not reporting it as taxable income.

Given this definition, it is obvious that most people have either committed the “crime” of money laundering – or will do so some time in the near future. But it gets worse. You do not personally need to be a money launderer to be guilty of money laundering. All you need to do is to do business or accept cash from someone who is, and you are guilty by association. Have you ever taken a \$100 to the bank and asked for change?

THUS, EVERYONE IS GUILTY OF MONEY LAUNDERING – just what your government wants. It doesn’t want a population of law-abiders, it wants everyone to feel guilty about something. WHY? Because guilty people are easier to control. Guilt puts you on “edge” and makes you vulnerable and subservient. THIS MEANS YOU!

Refuse to take the guilt trip! Get used to being a money launderer. Think positive. Laundering is a way of keeping things clean. Keep your money out of the dirty hands of bureaucratic low-lives and you’ll enjoy life more!

If someone wants to buy something and someone wants to sell it, it’s nobody else’s business!

**** Title 18 USCA, Section 1956**

For more information contact: VIP Sales, Box 463, Owensville, Ohio 45160 1-877-879-2788

Suspicious Activity Report

FRB: FR 2230 OMB No. 7100-0212
 FDIC: 6710/06 OMB No. 3064-0077
 OCC: 8010-9,8010-1 OMB No. 1557-0180
 OTS: 1601 OMB No. 1550-0003
 NCUA: 2362 OMB No. 3133-0094
 TREASURY: TD F 90-22.47 OMB No. 1506-0001

ALWAYS COMPLETE ENTIRE REPORT

Expires September 30, 1998

1 Check appropriate box:

a Initial Report b Corrected Report c Supplemental Report

Part I Reporting Financial Institution Information

2 Name of Financial Institution			3 Primary Federal Regulator		
4 Address of Financial Institution			a <input type="checkbox"/> Federal Reserve		d <input type="checkbox"/> OCC
			b <input type="checkbox"/> FDIC		e <input type="checkbox"/> OTS
5 City			6 State	7 Zip Code	
9 Address of Branch Office(s) where activity occurred			8 EIN or TIN		
11 City			12 State	13 Zip Code	
15 Account number(s) affected, if any			16 Have any of the institution's accounts related to this matter been closed?		
a _____			a <input type="checkbox"/> Yes b <input type="checkbox"/> No If yes, identify _____		
b _____					

Part II Suspect Information

17 Last Name or Name of Entity			18 First Name			19 Middle Initial		
20 Address						21 SSN, EIN or TIN (as applicable)		
22 City		23 State	24 Zip Code		25 Country	26 Date of Birth (MMDDYY)		
27 Phone Number - Residence (include area code)					28 Phone Number - Work (include area code)			
29 Occupation								
30 Forms of Identification for Suspect:								
a <input type="checkbox"/> Driver's License			b <input type="checkbox"/> Passport		c <input type="checkbox"/> Alien Registration		d <input type="checkbox"/> Other _____	
e Number _____				f Issuing Authority _____				
31 Relationship to Financial Institution:								
a <input type="checkbox"/> Accountant		d <input type="checkbox"/> Attorney		g <input type="checkbox"/> Customer		j <input type="checkbox"/> Officer		
b <input type="checkbox"/> Agent		e <input type="checkbox"/> Borrower		h <input type="checkbox"/> Director		k <input type="checkbox"/> Shareholder		
c <input type="checkbox"/> Appraiser		f <input type="checkbox"/> Broker		i <input type="checkbox"/> Employee		l <input type="checkbox"/> Other _____		
32 Is insider suspect still affiliated with the financial institution?						33 Date of Suspension, Termination, Resignation (MMDDYY)		34 Admission/Confession
a <input type="checkbox"/> Yes		If no, specify {		c <input type="checkbox"/> Suspended		e <input type="checkbox"/> Resigned		a <input type="checkbox"/> Yes b <input type="checkbox"/> No
b <input type="checkbox"/> No				d <input type="checkbox"/> Terminated				

Suspicious Activity Information

35 Date of suspicious activity (MMDDYY) _____ / _____ / _____		36 Dollar amount involved in known or suspicious activity \$ _____ .00	
Summary characterization of suspicious activity:			
a <input type="checkbox"/> Bank Secrecy Act/Structuring/ Money Laundering	g <input type="checkbox"/> Counterfeit Check	m <input type="checkbox"/> False Statement	
b <input type="checkbox"/> Bribery/Gratuities	h <input type="checkbox"/> Counterfeit Credit/Debit Card	n <input type="checkbox"/> Misuse of Position or Self-Dealing	
c <input type="checkbox"/> Check Fraud	i <input type="checkbox"/> Counterfeit Instrument (other)	o <input type="checkbox"/> Mortgage Loan Fraud	
d <input type="checkbox"/> Check Kiting	j <input type="checkbox"/> Credit Card Fraud	p <input type="checkbox"/> Mysterious Disappearance	
e <input type="checkbox"/> Commercial Loan Fraud	k <input type="checkbox"/> Debit Card Fraud	q <input type="checkbox"/> Wire Transfer Fraud	
f <input type="checkbox"/> Consumer Loan Fraud	i <input type="checkbox"/> Defalcation/Embezzlement		
r <input type="checkbox"/> Other			
38 Amount of loss prior to recovery (if applicable) \$ _____ .00	39 Dollar amount of recovery (if applicable) \$ _____ .00	40 Has the suspicious activity had a material impact on or otherwise affected the financial soundness of the institution? a <input type="checkbox"/> Yes b <input type="checkbox"/> No	
41 Has the institution's bonding company been notified? a <input type="checkbox"/> Yes b <input type="checkbox"/> No			
42 Has any law enforcement agency already been advised by telephone, written communication, or otherwise? If so, list the agency and local address. Agency _____			
43 Address _____			
44 City _____	45 State _____	46 Zip Code _____	

Witness Information

47 Last Name _____		48 First Name _____		49 Middle Initial _____	
50 Address _____				51 SSN _____	
52 City _____		53 State _____	54 Zip Code _____	55 Date of Birth (MMDDYY) _____ / _____ / _____	
56 Title _____		57 Phone Number (include area code) () _____		58 Interviewed a <input type="checkbox"/> Yes b <input type="checkbox"/> No	

Preparer Information

59 Last Name _____		60 First Name _____		61 Middle Initial _____	
62 Title _____		63 Phone Number (include area code) () _____		64 Date (MMDDYY) _____ / _____ / _____	

Contact for Assistance (If different than Preparer Information in Part V)

65 Last Name _____		66 First Name _____		67 Middle Initial _____	
68 Title _____		69 Phone Number (include area code) () _____			
70 Agency (If applicable) _____					

**REPORT OF FOREIGN BANK
 AND FINANCIAL ACCOUNTS**
 For the calendar year 19
 Do not file this form with your Federal Tax Return

Form Approved: OMB I
 Expiration Date: 8/89

This form should be used to report financial interest in or signature authority or other authority over one or more bank accounts, securities accounts, or other accounts in foreign countries as required by Department of the Treasury Regulations (31 CFR 103). You are not required to file a report if the aggregate value of the accounts did not exceed \$10,000. Check all appropriate boxes. SEE INSTRUCTIONS ON BACK FOR DEFINITIONS. File this form with Dept. of the Treasury, P.O. Box 103, MI 48232.

Name (Last, First, Middle) 4. Address (Street, City, State, Country, ZIP)	2. Social security number or employer identification number if other than individual	3. Name in title to account <input type="checkbox"/> Individual <input type="checkbox"/> Partner <input type="checkbox"/> Corporation <input type="checkbox"/> Fiduciary
----------------------------------------------------------------------------------	--------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

5. I had signature authority or other authority over one or more foreign accounts, but I had no "financial interest" in such accounts (see instruction J). Indicate for these accounts:

(a) Name and social security number or taxpayer identification number of each owner _____

(b) Address of each owner _____

(Do not complete item 9 for these accounts)

6. I had a "financial interest" in one or more foreign accounts owned by a domestic corporation, partnership or trust which is required to file TD F 90-22.1. (See instruction L). Indicate for these accounts:

(a) Name and taxpayer identification number of each such corporation, partnership or trust _____

(b) Address of each such corporation, partnership or trust _____

(Do not complete item 9 for these accounts)

7. I had a "financial interest" in one or more foreign accounts, but the total maximum value of these accounts (see instruction I) did not exceed \$10,000 at any time during the year. (If you checked this box, do not complete item 9).

I had a "financial interest" in 25 or more foreign accounts. (If you checked this box, do not complete item 9.)

9. If you had a "financial interest" in one or more but fewer than 25 foreign accounts which are required to be reported, and the total maximum value of the accounts exceeded \$10,000 during the year (see instruction I), write the total number of those accounts in the box below: Complete items (a) through (f) below for one of the accounts and attach a separate TD F 90-22.1 for each of the others. Items 1, 2, 3, 9, and 10 must be completed for each account.

Check here if this is an attachment.

(a) Name in which account is maintained	(b) Name of bank or other person with whom account is maintained
(c) Number and other account designation, if any	(d) Address of office or branch where account is maintained

(e) Type of account. (If not certain of English name for the type of account, give the foreign language name and describe the nature of the account. Attach additional sheets if necessary.)

Bank Account Securities Account Other (specify) _____

(f) Maximum value of account (see instruction I)

Under \$10,000 \$10,000 to \$50,000 \$50,000 to \$100,000 Over \$100,000

10. Signature	11. Title (Not necessary if reporting personal account)	12. Date
---------------	---------------------------------------------------------	----------

PRIVACY ACT NOTIFICATION

Pursuant to the requirements of Public Law 93-579, (Privacy Act of 1974), notice is hereby given that the authority to collect information on TD F 90-22.1 in accordance with 5 U.S.C. 552(e)(3) is Public Law 91-508; 31 U.S.C. 1121; 5 U.S.C. 301, 31 CFR Part 103.

The principal purpose for collecting the information is to assure maintenance of reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. The information collected may be provided to those officers and employees of any constituent unit of the Department of the Treasury who have a need for the records in the performance of their duties. The records may be referred to any other department or agency of the Federal Government upon the request of the head of such department or agency for use in a criminal, tax, or regulatory investigation or proceeding.

Disclosure of this information is mandatory. Civil and criminal penalties, including under certain circumstances a fine of not more than \$500,000 and imprisonment not more than five years, are provided for failure to file a report, supply information, and for filing a false or fraudulent report.

Disclosure of the social security number is mandatory. The authority to collect this number is 31 CFR 103. The social security number will not be disclosed to anyone other than those officers and employees of the Department of the Treasury who have a need for the records in the performance of their duties.

June 9, 1998

**Office of Information and Regulatory Affairs
Docket Library**



**Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503**

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Mr.

Per Your Request X
For your information

Subject: Request of Form 83-I

**From: Pamela Beverly
OIRA Docket Librarian**

Phone: 202/395-6881
Fax: 202/395-5806
Room: NEOB #10201

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW Washington, DC 20503.

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number b. <input type="checkbox"/> None a. _____</p>
<p>3. Type of information collection (check one)</p> <p>a. <input type="checkbox"/> New collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p><i>For b-f, note Item A2 of Supporting Statement instructions</i></p>	<p>4. Type of review requested (check one)</p> <p>a. <input type="checkbox"/> Regular</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by: _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other: _____ / _____</p>
7. Title	
8. Agency form number(s) (if applicable)	
9. Keywords	
10. Abstract	
<p>11. Affected public (Mark primary with "P" and all others that apply with "X")</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (Mark primary with "P" and all others that apply with "X")</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual reporting and recordkeeping hour burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p style="margin-left: 20px;">1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p style="margin-left: 20px;">1. Program change _____</p> <p style="margin-left: 20px;">2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (In thousands of dollars)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p style="margin-left: 20px;">1. Program change _____</p> <p style="margin-left: 20px;">2. Adjustment _____</p>
<p>15. Purpose of information collection (Mark primary with "P" and all others that apply with "X")</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (check all that apply)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting:</p> <p style="margin-left: 20px;">1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p style="margin-left: 20px;">4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p style="margin-left: 20px;">7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods Does this information collection employ statistical methods?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

Collection Information Statement for Individuals

Note: Complete all blocks, except shaded areas. Write "N/A" (not applicable) in those blocks that do not apply.
Instructions for certain line items are in Publication 1854.

1 Taxpayer(s) name(s) and address County	2 Home phone number ()	3 Marital status
	4a Taxpayer's social security number	4b Spouse's social security number

Section I Employment Information

5 Taxpayer's employer or business <i>(name and address)</i>	a How long employed	b Business phone number ()	c Occupation
	d Number of exemptions claimed on Form W-4 	e Pay period: <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Payday: (Mon-Sun)	f <i>(Check appropriate box)</i> <input type="checkbox"/> Wage earner <input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partner
6 Spouse's employer or business <i>(name and address)</i>	a How long employed	b Business phone number ()	c Occupation
	d Number of exemptions claimed on Form W-4 	e Pay period: <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Payday: (Mon-Sun)	f <i>(Check appropriate box)</i> <input type="checkbox"/> Wage earner <input type="checkbox"/> Sole proprietor <input type="checkbox"/> Partner

Section II Personal Information

7 Name, address and telephone number of next of kin or other reference	8 Other names or aliases	9 Previous address(es)
-------------------------------------------------------------------------------	---------------------------------	-------------------------------

10 Age and relationship of dependents living in your household *(exclude yourself and spouse)*

11 Date of Birth	a Taxpayer	b Spouse	12 Latest filed income tax return <i>(tax year)</i>	a Number of exemptions claimed	b Adjusted Gross Income
-------------------------	-------------------	-----------------	------------------------------------------------------------	---------------------------------------	--------------------------------

Section III General Financial Information

13 Bank accounts *(include savings and loans, credit unions, IRA and retirement plans, certificates of deposit, etc.) Enter bank loans in item 28.*

Name of Institution	Address	Type of Account	Account No.	Balance

Total *(Enter in item 21)*

Section III (continued)

General Financial Information

14 Charge cards and lines of credit from banks, credit unions, and savings and loans. List all other charge accounts in item 28.

Type of Account or Card	Name and Address of Financial Institution	Monthly Payment	Credit Limit	Amount Owed	Credit Available
Totals (Enter in item 27)					

15 Safe deposit boxes rented or accessed (List all locations, box numbers, and contents)

16 Real Property (Brief description and type of ownership)	Physical Address
a	County
b	County
c	County

17 Life Insurance (Name of Company)	Policy Number	Type	Face Amount	Available Loan Value
		<input type="checkbox"/> Whole <input type="checkbox"/> Term		
		<input type="checkbox"/> Whole <input type="checkbox"/> Term		
		<input type="checkbox"/> Whole <input type="checkbox"/> Term		
Total (Enter in item 23)				

18 Securities (stocks, bonds, mutual funds, money market funds, government securities, etc.):

Kind	Quantity or Denomination	Current Value	Where Located	Owner of Record

19 Other information relating to your financial condition. If you check the "Yes" box, please give dates and explain on page 4, Additional Information or Comments:

a Court proceedings	<input type="checkbox"/> Yes <input type="checkbox"/> No	b Bankruptcies	<input type="checkbox"/> Yes <input type="checkbox"/> No
c Repossessions	<input type="checkbox"/> Yes <input type="checkbox"/> No	d Recent sale or other transfer of assets for less than full value	<input type="checkbox"/> Yes <input type="checkbox"/> No
e Anticipated increase in income	<input type="checkbox"/> Yes <input type="checkbox"/> No	f Participant or beneficiary to trust, estate, profit sharing, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Section IV Assets and Liabilities

Description	Current Market Value	Current Amount Owed	Equity in Asset	Amount of Monthly Payment	Name and Address of Lien/Note Holder/Lender	Date Pledged	Date of Final Payment
20 Cash							
21 Bank accounts (from item 13)							
22 Securities (from item 18)							
23 Cash or loan value of insurance							
24 Vehicles (model, year, license, tag #)							
a							
b							
c							
25 Real property (from Section III, item 16)							
a							
b							
c							
26 Other assets							
a							
b							
c							
d							
e							
27 Bank revolving credit (from item 14)							
28 Other liabilities (including bank loans, judgments, notes, and charge accounts not entered in item 13)							
a							
b							
c							
d							
e							
f							
g							
29 Federal taxes owed (prior years)							
30 Totals			\$	\$			

Internal Revenue Service Use Only Below This Line

Financial Verification/Analysis

Item	Date Information or Encumbrance Verified	Date Property Inspected	Estimated Forced Sale Equity
Personal residence			
Other real property			
Vehicles			
Other personal property			
State employment (husband and wife)			
Income tax return			
Wage statements (husband and wife)			
Sources of income/credit (D&B report)			
Expenses			
Other assets/liabilities			

Section V

Monthly Income and Expense Analysis

Total Income		Necessary Living Expenses		
Source	Gross	Claimed	(IRS use only) Allo	
31 Wages/salaries (taxpayer)	\$	42 National Standard Expenses ¹	\$	\$
32 Wages/salaries (spouse)		43 Housing and utilities ²		
33 Interest, dividends		44 Transportation ³		
34 Net business income from Form 433-B)		45 Health care		
35 Rental income		46 Taxes (income and FICA)		
36 Pension (taxpayer)		47 Court ordered payments		
37 Pension (spouse)		48 Child/dependent care		
38 Child support		49 Life insurance		
39 Alimony		50 Secured or legally-perfected debts (specify)		
40 Other		51 Other expenses (specify)		
41 Total income	\$	52 Total expenses	\$	\$
		53 (IRS use only) Net difference (income less necessary living expenses)	\$	

Certification Under penalties of perjury, I declare that to the best of my knowledge and belief this statement of assets, liabilities and other information is true, correct, and complete.

54 Your signature

55 Spouse's signature (if joint return was filed)

56 Date

Notes

- 1 Clothing and clothing services, food, housekeeping supplies, personal care products and services, and miscellaneous.
- 2 Rent or mortgage payment for the taxpayer's principal residence. Add the average monthly payment for the following expenses if they not included in the rent or mortgage payment: property taxes, homeowner's or renter's insurance, parking, necessary maintenance repair, homeowner dues, condominium fees and utilities. Utilities include gas, electricity, water, fuel oil, coal, bottled gas, trash and garbage collection, wood and other fuels, septic cleaning, and telephone.
- 3 Lease or purchase payments, insurance, registration fees, normal maintenance, fuel, public transportation, parking, and tolls.

Additional information or comments:

Internal Revenue Service Use Only Below This Line

Explain any difference between Item 53 and the installment agreement payment amount:

Name of originator and IDRS assignment number:

Date

Collection Information Statement for Businesses

(If you need additional space, please attach a separate sheet.)

Note: Complete all blocks, except shaded areas. Write "N/A" (not applicable) in those blocks that do not apply.

1 Name and address of business County	2 Business phone number () 3 (Check appropriate box) <input type="checkbox"/> Sole proprietor <input type="checkbox"/> Other (specify) <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation
4 Name and title of person being interviewed	5 Employer identification number 6 Type of business

7 Information about owner, partners, officers, major shareholder, etc.

Name and Title	Effective Date	Home Address	Phone Number	Social Security Number	Total Shares or Interest

Section I General Financial Information

8 Latest filed income tax return ▶	Form	Tax year ended	Net income before taxes
-------------------------------------------	------	----------------	-------------------------

9 Bank accounts (List all types of accounts including payroll and general, savings, certificates of deposit, etc.)

Name of Institution	Address	Type of Account	Account Number	Balance
Total (Enter in item 17) ▶				

10 Bank credit available (Lines of credit, etc.)

Name of Institution	Address	Credit Limit	Amount Owed	Credit Available	Monthly Payments
Totals (Enter in items 24 or 25 as appropriate) ▶					

11 Location, box number, and contents of all safe deposit boxes rented or accessed

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December 1, 1998, Tuesday

SECTION: CAPITOL HILL HEARING TESTIMONY

LENGTH: 2800 words

HEADLINE: TESTIMONY December 01, 1998 ALAN M. DERSHOWITZ PROFESSOR HARVARD LAW SCHOOL HOUSE JUDICIARY THE CONSEQUENCES OF PERJURY AND RELATED CRIMES

BODY:

Testimony of Alan M. Dershowitz House of Representatives Judiciary Committee December 1, 1998 I My name is Alan M. Dershowitz and I have been teaching criminal law at Harvard Law School for 35 years. I have also participated in the litigation--especially at the appellate level--of hundreds of federal and state cases, many of them involving perjury and the making of false statements. I have edited a casebook on criminal law and have written 10 books and hundreds of articles dealing with subjects relating to the issues before this committee. It is an honor to have been asked to share my experience and expertise with you all here today. For nearly a quarter century, I have been teaching, lecturing and writing about the corrosive influences of perjury in our legal system, especially when committed by those whose job it is to enforce the law, and ignored--or even legitimized--by those whose responsibilities it is to check those who enforce the law. On the basis of my academic and professional experience, I believe that no felony is committed more frequently in this country than the genre of perjury and false statements. Perjury during civil depositions and trials is so endemic that a respected appellate judge once observed that "experienced lawyers say that, in large cities, scarcely a trial occurs in which some witness does not lie." He quoted a wag to the effect that cases often are decided "according to the preponderance of perjury." 1 Filing false tax returns and other documents under pains and penalties of perjury is so rampant that everyone acknowledges that only a tiny fraction of offenders can be prosecuted. Making false statements to a law enforcement official is so commonplace that the Justice Department guidelines provide for prosecution of only some categories of this daily crime. Perjury at criminal trials is so common that whenever a defendant testifies and is found guilty, he has presumptively committed perjury. 2 Police perjury in criminal cases - particularly in the context of searches and other exclusionary rule issues - is so pervasive that the former police chief of San Jose and Kansas City has estimated that "hundreds of thousands of law-enforcement officers commit felony perjury every year testifying about drug arrests" alone. 3 In comparison with their

frequency, it is likely that false statement crimes are among the most under-prosecuted in this country. Though state and federal statutes carry stringent penalties for perjury, few perjurers ever actually are subjected to those penalties. As prosecutor E. Michael McCann has concluded, "Outside of income tax evasion, perjury is probably the most underprosecuted crime in America." 4 Moreover, there is evidence that false statements are among the most selectively prosecuted of all crimes, and that the criteria for selectivity bears little relationship to the willfulness or frequency of the lies, the certainty of the evidence or any other neutral criteria relating to the elements of perjury or other false statement crimes. Professor Richard H. Underwood, the Spears-Gilbert Professor of Law at the University of Kentucky's law school, writes that: more often, the perjury law has been invoked for revenge, or for the purpose of realizing some political end (the very base reason that lies are sometimes told!), or for the purpose of nabbing a criminal who might otherwise be difficult to nab, or, dare I say it, for the purpose of gaining some tactical advantage. Proving that perjury was committed, or that a "false statement" or a "false claim" was made, may be an easier, or a more palatable, brief for the prosecution. 5 Historically, false statements generally have admitted of considerable variations in degree. 6 The core concept of perjury was that of "bearing false witness," a biblical term that consisted in accusing another of crime. 7 Clearly, the most heinous brand of lying is the giving of false **testimony** that results in the imprisonment or even execution of an innocent person. Less egregious, but still quite serious, is false **testimony** that results in the conviction of a person who committed the criminal conduct, but whose rights were violated in a manner that would preclude conviction if the police were to testify truthfully. There are many other points on this continuum, ranging from making false statements about income or expenses to testifying falsely in civil trials. The least culpable genre of false statements are those that deny embarrassing personal conduct of marginal relevance to the matter at issue in the legal proceeding. Much of the public debate about President Clinton and possible perjury appears to ignore the following important lessons of history: 1. that the overwhelming majority of individuals who make false statements under oath are not prosecuted; 2. that those who are prosecuted generally fall into some special category of culpability or are victims of selective prosecution; and, 3. that the false statements of which President Clinton is accused fall at the most marginal end of the least culpable genre of this continuum of offenses and would never even be considered for prosecution in the routine case involving an ordinary defendant. II My interest in the corrosive effects of perjury began in the early 1970s when I represented--on a pro bono basis--a young man who was both a member of and a government informer against the Jewish Defense League. He was accused of making a bomb that caused the death of a woman, but he swore that a particular policeman, who had been assigned to be his handler, had made him certain promises in exchange for his information. The policeman categorically denied making any promises, but my client had-- unbeknownst to the policeman--surreptitiously taped many of his conversations with the policeman. The tapes proved beyond any doubt that the policeman had committed repeated perjury, and all charges were dropped against my client. But the policeman was never charged with perjury. Instead he was promoted. 8 The following year, I represented, on appeal, a lawyer accused of corruption. The major witness against him was a policeman who acknowledged at trial that he himself had committed three crimes while serving as a police officer. He denied that he had committed more than these three crimes. It was subsequently learned that he had, in fact, committed hundreds of additional crimes, including some he specifically denied under oath. He too was never prosecuted for perjury, because a young Assistant U.S. Attorney, named Rudolph Giuliani, led a campaign against prosecuting this admitted perjurer. Shortly afterward, the policeman explained: Cops are almost taught how to commit perjury when they are in the Police Academy. Perjury to a policeman - and to a lawyer, by the way - is not a big deal. Whether they are giving out speeding tickets or parking tickets, they're almost always lying. But very few cops lie about the actual facts of a case. They may stretch an incident or whatever to fit it into the framework of the law based on what they consider a silly law of the Supreme Court. 9 Nor is the evidence of police perjury merely anecdotal. Numerous commission reports have found rampant abuses in police departments throughout the country. All objective reports point to a pervasive problem of police lying, and tolerance of the lying by prosecutors and judges, all in the name of convicting the factually guilty whose rights may have been violated and whose convictions might be endangered by the exclusionary rule. As the Mollen Commission reported: The practice of police falsification in

connection with such arrests is so common in certain precincts that it has spawned its own word: "testilying." . . . Officers also commit falsification to serve what they perceive to be "legitimate" law enforcement ends - and for ends that many honest and corrupt officers alike stubbornly defend as correct. In their view, regardless of the legality of the arrest, the defendant is in fact guilty and ought to be arrested. 10 Even more troubling, in the Mollen Commission's view, "the evidence suggests that the . . . commanding officer not only tolerated, but encouraged, this unlawful practice." The commission provided several examples of perjured cover stories that had been suggested to a young officer by his supervisor: Scenarios were, were you going to say (a) that you observed what appeared to be a drug transaction; (b) you observed a bulge in the defendant's waistband; or (c) you were informed by a male black, unidentified at this time, that at the location there were drug sales. QUESTION: So, in other words, what the lieutenant was telling you is "Here's your choice of false predicates for the arrest." OFFICER: That's correct. Pick which one you're going to use. 11 Nor was this practice limited to police supervisors. As the Mollen Commission reported: Several former and current prosecutors acknowledged - "off the record" - that perjury and falsification are serious problems in law enforcement that, though not condoned, are ignored. The form this tolerance takes, however, is subtle, which makes accountability in this area especially difficult. 12 The epidemic is conceded even among the highest ranks of law enforcement. For example, William F. Bratton, who has headed the police departments of New York City and Boston, has confirmed that "testilying" is a "real problem that needs to be addressed." He also placed some of the responsibility squarely at the feet of prosecutors: When a prosecutor is really determined to win, the trial prep procedure may skirt along the edge of coercing or leading the police witness. In this way, some impressionable young cops learn to tailor their **testimony** to the requirements of the law. 13 Many judges who listen to or review police **testimony** on a regular basis privately agree with Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit, who publicly stated: "It is an open secret long shared by prosecutors, defense lawyers and judges that perjury is widespread among law enforcement officers," and that the reason for it is that "the exclusionary rule . . . sets up a great incentive for . . . police to lie to avoid letting someone they think is guilty, or they know is guilty, go free." 14 Or, as Judge Irving Younger explained, "Every lawyer who practices in the criminal courts knows that police perjury is commonplace." 15 As these judges attest, this could not happen without active complicity of many prosecutors and judges. Yet there is little apparent concern to remedy that serious abuse of the oath to tell the truth--even among those who now claim to be so concerned with the corrosive influences of perjury on our legal system. The sad reality appears to be that most people care about perjury only when they disapprove of the substance of the lie or of the person who is lying. A perfect example of selective morality regarding perjury occurred when President George Bush pardoned former Secretary of Defense Caspar Weinberger in 1992, even though physical records proved that Weinberger had lied in connection with his **testimony** regarding knowledge of Iran arms sales. Not only was there no great outcry against pardoning an indicted perjurer, some of the same people who insist that President Clinton not be allowed to "get away" with lying were perfectly prepared to see Weinberger "get away" with perjury. Senator Bob Dole of Kansas spoke for many when he called the pardon a "Christmas Eve act of courage and compassion." 16 The real issue is not the handful of convicted perjurers appearing before this committee, but the hundreds of thousands of perjurers who are never prosecuted, many for extremely serious and calculated acts of perjury designed to undercut constitutional rights of unpopular defendants. If we really want to reduce the corrosive effects of perjury on our legal system, the place to begin is at or near the top of the perjury hierarchy. If instead we continue deliberately to blind ourselves to pervasive police perjury and other equally dangerous forms of lying under oath and focus on a politically charged tangential lie in the lowest category of possible perjury (hiding embarrassing facts only marginally relevant to a dismissed civil case), we would be reaffirming the dangerous message that perjury will continue to be a selectively prosecuted crime reserved for political or other agenda-driven purposes. A Republican aide to this committee was quoted by The New York Times as follows: "In the hearing, we'll be looking at perjury and its consequences, and whether it is tenable for a nation to have two different standards for lying under oath; one for the President and one for everyone else." 17 On the basis of my research and experiences, I am convinced that if President Clinton were an ordinary citizen, he would not be prosecuted for his allegedly false statements, which were made in a civil

deposition about a collateral sexual matter later found inadmissible in a case eventually dismissed and then settled. If President Clinton were ever to be prosecuted or impeached for perjury on the basis of the currently available evidence, it would indeed represent an improper double standard: a selectively harsher one for the president (and perhaps a handful of other victims of selective prosecution) and the usual laxer one for everyone else. 1. Jerome Frank, *Courts On Trial* 85 (1949). 2. Many such defendants now have years added on to their sentences under the federal guidelines, which add points for perjury at trial. 3. Joseph D. McNamara, *Has the Drug War Created an Officer Liars' Club?* *Los Angeles Times*, Feb. 11, 1996, at M1. 4. From Mark Curriden, *The Lies Have It*, A.B.A. J., May 1995, at 71, quoted in Lisa C. Harris, *Perjury Defeats Justice*, 42 *Wayne L. Rev.* 1755, 1768-69 (1996) (footnote omitted). See also Hon. Sonia Sotomayor & Nicole A. Gordon, *Returning Majesty to the Law and Politics: A Modern Approach*, 30 *Suffolk U. L. Rev.* 35, 51 n.52 (1996) ("Perjury cases are not often pursued, and perhaps should be given greater consideration by prosecuting attorneys as a means of enhancing the credibility of the trial system generally."); Fred Cohen, *Police Perjury: An Interview With Martin Garbus*, 8 *Crim. L. Bull.* 363, 367 (1972), quoted in Christopher Slobogin, *Testilying: Police Perjury and What to Do About It*, 67 *U. Colo. L. Rev.* 1037, 1060 n.13 (1996) ("no trial lawyer that I know will argue that police perjury is nonexistent or sporadic.") 5. Richard H. Underwood, *Perjury: An Anthology*, 13 *Ariz. J. Int'l & Comp. L.* 307, 379 (1996). 6. See, e.g., Richard H. Underwood, *False Witness: A Lawyer's History of the Law of Perjury*, 10 *Ariz. J. Int'l & Comp. L.* 215, 252 n.157 (1993). 7. See, e.g., Underwood, *id.* at 223 and accompanying note 37. 8. See Dershowitz, *The Best Defense* 67 (1982). The chief of detectives of New York wrote a book about this case in which he confirmed these facts. See Albert Seedman, *Chief!* (1974). 9. See Dershowitz, *The Best Defense*, *supra* note 8, at 377. This was confirmed in a book entitled *Prince of the City* (and a motion picture of the same name), whose contents were approved by the policeman. See Robert Daley, *Prince of the City* (1978). 10. Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Practices of the Police Department, Milton Mollen, Chair, July 7, 1994, at 36 hereinafter *Mollen Report*. The report then went on to describe how officers reported a litany of manufactured tales. For example, when officers unlawfully stop and search a vehicle because they believe it contains drugs or guns, officers will falsely claim in police reports and under oath that the car ran a red light (or committed some other traffic violation) and that they subsequently saw contraband in the car in plain view. To conceal an unlawful search of an individual who officers believe is carrying drugs or a gun, they will falsely assert that they saw a bulge in the person's pocket or saw drugs and money changing hands. To justify unlawfully entering an apartment where officers believe narcotics or cash can be found, they pretend to have information from an unidentified civilian informant. *Id.* at 38. 11. *Mollen Report*, *supra* note 10, at 41. 12. *Mollen Report*, *supra* note 10, at 42. 13. *Boston Globe*, November 15, 1995, at 1. 14. Stuart Taylor, Jr., *For the Record*, *American Lawyer*, Oct. 1995, at 72. 15. Irving Younger, *The Perjury Routine*, *The Nation*, May 8, 1967, at 596-97. 16. Elaine Sciolino, *On the Question of Pardons, Dole has Taken Both Sides*, *The New York Times*, 16 Oct. 1996, at A15. 17. Eric Schmitt, *Panel Considers Perjury and Its Consequences*, *The New York Times*, Nov. 28, 1998, at A13.

LANGUAGE: ENGLISH

LOAD-DATE: December 2, 1998

tion, national banking, bankruptcy, federal employers' liability, safety appliance, extradition, and census laws in one way or another to Porto Rico. With the background of the considerations already stated, none of these nor all of them put together furnish ground for the conclusion pressed on us.

→ The United States District Court is not a true United States court established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, § 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court.

→ Nor does the legislative recognition that federal constitutional questions may arise in litigation in Porto Rico have any weight in this discussion. The Constitution of the United States is in force in Porto Rico as it is wherever and whenever the sovereign power of that government is exerted. This has not only been admitted but emphasized by this court in all its authoritative expressions upon the issues arising in the *Insular Cases*, especially in the *Downes v. Bidwell* and the *Dorr Cases*. The Constitution, however, contains grants of power and limitations which in the nature of things are not always and everywhere applicable, and the real issue in the *Insular Cases* was not whether the Constitution extended to the Philippines or Porto Rico when we went there, but which of its provisions were applicable by way of limitation upon the exercise of executive and legislative power in dealing with new conditions and requirements. The guaranties of certain fundamental personal rights declared in the Constitution, as for in-

stance that no person could be deprived of life, liberty or property without due process of law, had from the beginning full application in the Philippines and Porto Rico, and, as this guaranty is one of the most fruitful in causing litigation in our own country, provision was naturally made for similar controversy in Porto Rico. Indeed provision is made for the consideration of constitutional questions coming on appeal and writ of error from the Supreme Court of the Philippines, which are certainly not incorporated in the Union. Judicial Code, § 248.

On the whole, therefore, we find no features in the Organic Act of Porto Rico of 1917 from which we can infer the purpose of Congress to incorporate Porto Rico into the United States with the consequences which would follow.

This court has passed on substantially the same questions presented here in two cases, *Porto Rico v. Tapia*, and *Porto Rico v. Muratti*, 245 U. S. 639. In the former, the question was whether one who was charged with committing a felonious homicide some twelve days after the passage of the Organic Act in 1917, could be brought to trial without an indictment of a grand jury as required by the Fifth Amendment to the Constitution. The United States District Court of Porto Rico on a writ of habeas corpus held that he could not be held to answer and discharged him. In the other case, the felony charged was alleged to have been committed before the passage of the Organic Act, but prosecution was begun afterwards. In that, the Supreme Court of Porto Rico held that an indictment was rendered necessary by the Organic Act. This court reversed the District Court in the *Tapia Case* and the Supreme Court in the *Muratti Case*, necessarily holding the Organic Act had not incorporated Porto Rico into the United States. These cases were disposed of by a *per curiam*. Counsel have urged us in the cases

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unity or the alcoholic equivalent thereof.

Rectifier. Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

Taxpaid. As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was deferred under the provisions of Subpart E of this part.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

United States. The States and the District of Columbia.

U.S.C. The United States Code.

United States Bureau of Alcohol, Tobacco and Firearms office. The Bureau of Alcohol, Tobacco and Firearms office in Puerto Rico operating under the direction of the Regional Director (Compliance), North Atlantic Region, New York, NY 10048.

Virgin Islands regulations. Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and § 250.201a.

Wine. Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of

alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13551, Mar. 31, 1978]

EDITORIAL NOTE FOR FEDERAL REGISTER citations affecting § 250.11, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

§ 250.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 250.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-203, 50 FR 15888, Apr. 23, 1985]

§ 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United

from Title 27.250.11
C.F.R.

27 CFR Ch. I (4-1-90 Edition)

Collection of taxes.
Assessments.
Claims.
Offers in compromise.
Rulings.
Forms.

PROVISIONS RELATING TO FIREARMS AND EXPLOSIVES

Applicable laws.
Taxes relating to machine guns, device devices, and certain other fire-

Commerce in firearms and ammuni-

Transportation of arms, ammunition, implements of war.

Commerce in explosives.
Rulings.

Assessments.

Claims.

Offers in compromise.

SEIZED PROPERTY

Seizure and forfeiture of personal property.

OFFERS IN COMPROMISE

Offers in compromise.

RULINGS

Rulings.

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 2, 5207, 5275, 5367, 5415, 5504, 5555, 741, 5761(b), 6020, 6155, 6201, 6203, 6313, 6314, 6401, 6402, 6404, 6407, 6511, 6513, 6514, 6532, 6601, 6602, 6622, 6651, 6653, 6656, 6657, 6658, 6672, 6676, 6701, 6801, 6862, 6863, 7606, 7608, 7622, 7623, 7653, 7805.

Authority: T.D. ATF-6, 38 FR 32445, Nov. 26, 1971, unless otherwise noted.

Subpart A—Scope

General.

This part sets forth the procedural administrative rules of the Bureau of Alcohol, Tobacco and Firearms for: the issuance and enforcement of licenses, examination of books of accounts and witnesses, administration and entry of premises for examination of taxable objects, granting of information, canvass of regions for taxable objects and persons, authority of ATF officers.

The use of commercial banks for the collection of excise taxes imposed by 26 U.S.C. Subtitles E and F.

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 70.

(c) The preparing or executing of returns; deposits; payment on notice and demand; assessment; abatements, credits, and refunds; limitations on assessment; limitations on credit or refund; periods of limitation in judicial proceedings; interest; additions to the tax, additional amounts, and assessable penalties; authority for establishment, alteration, and distribution of stamps, marks, or labels; jeopardy assessment of alcohol, tobacco, and firearms taxes; and registration of persons paying a special tax.

(d) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, and certain firearms and explosives.

[T.D. ATF-251, 52 FR 19314, May 22, 1987]

Subpart B—Definitions

§ 70.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bureau. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. 20226.

CFR. The Code of Federal Regulations.

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

Electronic fund transfer or EFT. A transfer of funds effected by a taxpayer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Regional director (compliance). The principal ATF regional official responsible for administering regulations under this part.

Special agent in charge. The principal official responsible for the ATF criminal enforcement program within an ATF district.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

U.S.C. The United States Code.

(Aug. 16, 1954, Ch. 736, 68A Stat. 775 (U.S.C. 6301); June 29, 1956, Ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13535, Mar. 31, 1978, 44 FR 55841, Sept. 28, 1979, as amended; T.D. ATF-77, 46 FR 3002, Jan. 13, 1981]

Subpart C—Discovery of Liability and Enforcement of Laws

EXAMINATION AND INSPECTION

§ 70.21 Canvass of regions for taxable persons and objects.

Each regional director (compliance) shall, to the extent he deems it practicable, cause officers or employees under his supervision and control to proceed, from time to time, through his region and inquire after and concerning all persons therein who may be liable to pay any tax, imposed under 26 U.S.C. Subtitle E, and all persons owning or having the care and management of any objects with respect to which such tax is imposed.

(68A Stat. 901 (26 U.S.C. 7601); 26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744))

Police State Judges, Cops No Longer Public Servants, Just Tools of Corrupt Agenda

We have entered an era of American history where government agents have been granted absolute immunity from prosecution—regardless of how unconstitutional or illegal their actions.

EXCLUSIVE TO THE SPOTLIGHT

BY DON HARKINS

Please feel free to access the following court cases. Then test the concept of government immunity from prosecution by attempting to hold government agents accountable, individually or in their official capacity, for their actions in a court of law. You will find that no matter how unconscionable the actions of government agents in their impassioned attempts to prosecute innocent people for imagined crimes, you cannot successfully prosecute state or federal agents.

1. Prosecutor may violate civil rights in initiating prosecution and presenting cause.

U.S. Supreme Court, *Imbler v. Pachtman*, 424 U.S.409 (1976).

2. Immunity extends to all activities closely associated with litigation or potential litigation.

Second Circuit Federal Court of Appeals, *Davis v. Grusemeyer*, 996 F.2d617 (1993).

3. Prosecutor may knowingly use false testimony and suppress evidence. U.S. Supreme Court, *Imbler v. Pachtman*, U.S. 409 (1976).

4. Prosecutor may file charges without any investigation. Eighth Circuit Federal Court of Appeals, *Myers v. Morris*, 810 F.2d 1337 (1986).

5. Prosecutor may file charges outside of his jurisdiction. Eighth Circuit Federal Court of Appeals, *Myers v. Morris*, 810 F.2d 1337 (1986).

6. Prosecutor may knowingly offer perjured testimony. Ninth Circuit Federal Court of Appeals, *Jones v. Shankland*, 800 F.2d 1310 (1987).

7. Prosecutor may suppress exculpatory evidence. Fifth Circuit Federal Court of Appeals, *Henzel v. Gertatica*, 608 F.2d 654 (1979).

8. Prosecutors are immune from lawsuit for conspiring with judges to determine the outcome of judicial proceedings. Ninth Circuit Federal Court of Appeals, *Ashelman v. Pope*, 793 F.2d 1072 (1986).

9. Prosecutor may knowingly file charges against innocent persons for a crime that never occurred. Tenth Circuit Federal Court of Appeals, *Norton v. Liddell*, 620 F.2d 1375 (1980).

The nine cases cited are only the beginning. This year there are thousands of cases from across the country

that have been decided or ignored in favor of government and/or its agents. The cases cited were published and have created what is known in the legal realm as precedent. The unfairness of the situation has been exacerbated by unpublished decisions.

The justice-undermining implications of unpublished decisions were featured in an article by Washington, D.C., attorney John G. Kester that was published in a December 1995 edition of *The Wall Street Journal*.

"One law clerk observed that many government agencies, whenever they win an unpublished case, routinely ask to have it published and the court usually complies, but if they lose, down the memory hole it goes," Kester wrote. In other words, if a citizen happens to win a case against a government agency, a government employee or an elected official, the decision is likely to be "unpublished." An unpublished decision may be a win for the citizen in the specific case, but cannot be cited as precedent in later court proceedings—even if applicable. Kester wrote: "... It is a momentous innovation, to say that if you find a precedent, you still can't cite it or that it will be ignored."

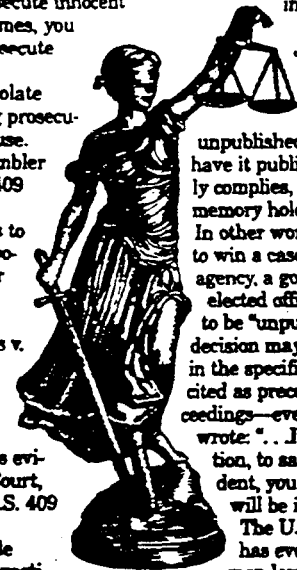
The U.S. legal system, which has evolved from English common law, has been writing and publishing court decisions since the very beginning. Legal precedent is the cornerstone of American jurisprudence.

Over the course of time, perpetual litigants like the federal government have managed to stack the legal libraries of this country with published decisions which support the positions of government officials while rulings which are contrary to government interests go unpublished.

The result is a legal system that has been handicapped so heavily in favor of government interests that people who are foolish enough to challenge the authority of the government have no chance to win in court.

Our republican form of government that was designed to be of, by and for the people cannot survive if the judicial branch continues to allow government agencies, through the activities of their agents, to stack the law libraries with legal precedents that provide themselves absolute immunity.

Don Harkins is the publisher and editor of The Idaho Observer.



United States Court of Appeals
for the eighth circuit

No. 97-3888

United States of America,	*
	*
Plaintiff - Appellee,	*
	*
v.	*
	*
Elton Howard Silkman,	*
	*
Defendant - Appellant.	*

Submitted: April 20, 1998
Filed: September 16, 1998

Before McMILLIAN, LOKEN, and HANSEN, Circuit Judges.

LOKEN, Circuit Judge.

Elton Silkman appeals his conviction for tax evasion in violation of 26 U.S.C. § 7201. Silkman, a former South Dakota farmer, did not file federal income tax returns for the years 1981 through 1985 and ignored numerous IRS inquiries about his failures to file. In March 1991, the IRS issued a notice of deficiency reciting that Silkman owed \$282,515 in taxes for those five years, plus accrued penalties and interest, and advising he had ninety days to petition the United States Tax Court for redetermination of the asserted deficiency. See 26 U.S.C. §§ 6212-6213. Silkman instead responded with letters stating, "I am not a 'taxpayer' as that term is defined within section 7701

. . . of the [Internal Revenue] Code," and, "If I do not hear from you within 30 days from the receipt of this letter, I will presume that you have no intention of following the Internal Revenue Service procedures outlined above and I will take appropriate action." Later that year, Silkman sold his farm, equipment, cattle, grazing rights, and grain and transferred most of the substantial proceeds to European bank accounts in the names of various trusts, where he now claims the money disappeared.

In September 1991, the IRS assessed the asserted tax deficiencies. See 26 U.S.C. §§ 6201-6203; 26 C.F.R. § 301.6203-1. After efforts to collect the assessments failed, the government indicted Silkman on five counts of tax evasion, one for each of the five tax years. Tax evasion is defined in § 7201 as willfully attempting "in any manner to evade or defeat any tax imposed by this title or the payment thereof." The elements of this crime "are willfulness; the existence of a tax deficiency; and an affirmative act constituting an evasion or attempted evasion of the tax." *Sansone v. United States*, 380 U.S. 343, 351 (1965) (citations omitted); see *United States v. Abodeely*, 801 F.2d 1020, 1023 (8th Cir. 1986). At trial, the government's proof of tax deficiencies consisted of the March 1991 notice of deficiency plus five certificates evidencing the September 1991 assessments. At the government's urging, the district court excluded defense evidence offered to prove that Silkman in fact had no taxable income for the tax years in question. Instead, the court instructed the jury that the tax assessment for each year "establishes the tax liability." The jury convicted Silkman on all five counts. On appeal, he challenges this evidentiary ruling and raises three other issues. We agree the district court erred in excluding this evidence and therefore remand for a new trial.


* [Tax evasion is a felony, a serious offense that is "the capstone of a system of sanctions which singly or in combination were calculated to induce prompt and forthright fulfillment of every duty under the income tax law and to provide a penalty suitable to every degree of delinquency." *Sansone*, 380 U.S. at 350-51, quoting *Spies v. United States*, 317 U.S. 492, 497 (1943). Section 7201 is broadly worded, reflecting

the fact that willful tax evasion can occur at any stage of the IRS's complex process for determining, assessing, and collecting federal taxes. But whether a taxpayer is charged with tax evasion by willfully attempting to defeat the IRS's ascertainment of his tax liability, or by willfully attempting to evade the payment of a tax, the government must prove that the tax was in fact "imposed by this title," in other words, a tax deficiency. See *United States v. Dack*, 747 F.2d 1172, 1174 (7th Cir. 1984).⁽¹⁾ Conversely, "a taxpayer-defendant has a right to establish as a defense that he owed no tax in addition to what he had paid." *United States v. Moody*, 339 F.2d 161, 162 (6th Cir. 1964).

TAX

The issue in this case -- one of first impression -- is whether an IRS tax assessment that is administratively final for purposes of the agency's civil collection remedies is also conclusive proof of the tax deficiency in a tax evasion prosecution. The district court reasoned that this criminal trial was not the appropriate forum to contest the IRS assessments after Silkman slept on his right under the tax laws to challenge them administratively or by Tax Court litigation. But Silkman was not charged with willfully refusing to obey an agency order; in that type of case, the criminal defendant may be barred from attacking the validity of the order he disobeyed. Compare *Cox v. United States*, 332 U.S. 442, 453 (1947), with *Estep v. United States*, 327 U.S. 114, 122 (1946). Here, the IRS assessments were offered as conclusive proof of an underlying fact that is an element of the crime -- that taxes were in fact owed. In this type of case, the overriding principle is that "one charged with the commission of a felony . . . has an absolute right to a jury determination upon all essential elements of the offense." *United States v. England*, 347 F.2d 425, 430 (7th Cir. 1965); see *Koontz v. United States*, 277 F.2d 53, 55 (5th Cir. 1960).

(1) By contrast, a taxpayer can be convicted of the misdemeanor of willfully failing to file an income tax return without proof that any tax was assessed or owing. See 26 U.S.C. § 7203; *United States v. Richards*, 723 F.2d 646 (8th Cir. 1983).


 The government has no authority for its startling contention that an IRS assessment is conclusive proof in a criminal trial that taxes were in fact owing. The government cites *Dack*, 747 F.2d at 1174, and *United States v. Daniel*, 956 F.2d 540, 542 (6th Cir. 1992), but they merely held that when an alleged tax evasion arose from the failure to file a tax return, no formal assessment is necessary because the deficiency is deemed to arise by operation of law on the date a return should have been filed. Accord *United States v. Hogan*, 861 F.2d 312, 315 (1st Cir. 1988). These cases did not address whether a formal assessment when made is conclusive proof of the asserted deficiency. The government also cites *United States v. Voorhies*, 658 F.2d 710 (9th Cir. 1981), but that case supports Silkman's position. In *Voorhies*, the taxpayer was charged with evading the payment of taxes by concealing assets at a time prior to the formal assessment. The government's proof of a tax deficiency consisted of the certificates of assessment and the testimony of an agent explaining how the tax liability had been determined. Like the later decisions in *Dack* and *Daniel*, the court first rejected the taxpayer's contention that a tax deficiency cannot exist prior to formal assessment. It then went on to conclude that the government's uncontradicted evidence was sufficient to prove a tax deficiency because "the certificates of assessment were prima facie correct and therefore adequate evidence of the amount of Voorhies' tax liability." *Id.* at 715 (emphasis added).

4 { We agree with the analysis in *Voorhies* -- a formal tax assessment that has become administratively final is prima facie evidence of the asserted tax deficiency, and if unchallenged, it may suffice to prove this element of the crime. But the assessment is only prima facie proof of a deficiency. The assessed deficiency may be challenged by the defendant accused of tax evasion, and the issue is one for the jury. As the Supreme Court said in *United States v. Martin Linen Supply Co.*, 430 U.S. 564, 572-73 (1977), the jury's

overriding responsibility is to stand between the accused and a potentially arbitrary or abusive government that is in command of the criminal

sanction. For this reason, a trial judge is prohibited from entering a judgment of conviction or directing a jury to come forward with such a verdict, regardless of how overwhelmingly the evidence may point in that direction.

(Citations omitted.) This conclusion is consistent with *United States v. England*, where the government conceded that proof of a valid assessment was essential to its evasion case, and the court held it was error to instruct the jury the assessment was valid as a matter of law. 347 F.2d at 430. *England* was followed in *United States v. Goetz*, 746 F.2d 705, 708-10 (11th Cir. 1984). Our conclusion is also consistent with decisions that the taxpayer may defend a charge of willfully evading the assessment of taxes by proving there was no tax due and owing, for example, by evidence of unclaimed deductions and expenses. See, e.g., *Clark v. United States*, 211 F.2d 100, 103 (8th Cir. 1954); see also *Sansone*, 380 U.S. at 354 (the crime of tax evasion is complete when a false return is filed "assuming, of course, that there was in fact a deficiency").

We find further support for this conclusion in the Supreme Court's cases dealing with the validity of presumptions in criminal cases. The government argues, in effect, that the alleged tax deficiency may be conclusively presumed from an administratively final assessment. But conclusive presumptions are invalid in criminal cases because they "conflict with the overriding presumption of innocence with which the law endows the accused and which extends to every element of the crime, and would invade the factfinding function which in a criminal case the law assigns solely to the jury." *Sandstrom v. Montana*, 442 U.S. 510, 523 (1979) (quotations omitted). The court's approach in *Voorhies*, on the other hand, creates in effect only a permissive presumption, one that "merely allows an inference to be drawn and is constitutional so long as the inference would not be irrational." *Yates v. Evatt*, 500 U.S. 391, 402 n.7 (1991). It is rational to infer that an assessment which the taxpayer chose not to contest is prima facie evidence of the asserted deficiency. But it is not rational to make the assessment conclusive proof of the deficiency, particularly because in the absence of

a tax return an assessment is based upon a "substitute" return prepared by the IRS without the benefit of factual input from the taxpayer.] SFR

For the foregoing reasons, we conclude that one accused of tax evasion must have the opportunity to prove, however unlikely the proposition may be, that an administratively final tax assessment does not accurately reflect the existence of a tax deficiency. Therefore, Silkman is entitled to a new trial at which he may introduce evidence relevant to whether there was in fact a tax deficiency in one or more of the tax years in question.

Silkman raises three additional issues on appeal that require little discussion. First, he argues he is entitled to a judgment of acquittal because the government failed to prove tax deficiencies. We disagree. The formal assessments were prima facie evidence of tax deficiencies. When combined with the other evidence that Silkman consciously refused to file returns, ignored numerous IRS inquiries, evasively responded to the notice of deficiency, and then purposefully concealed his assets overseas, we think the trial record was more than sufficient to permit the jury to find tax deficiencies and the other elements of tax evasion beyond a reasonable doubt.

Second, Silkman argues the district court erred in excluding Exhibit 106, a document purporting to show that the deficiencies asserted in the IRS assessments were determined in an arbitrary or unreliable manner. The court excluded this evidence as part of its overall ruling that the assessments were conclusive proof of tax deficiencies. At a new trial, where the fact of tax deficiencies will be an open issue, we assume that, if Exhibit 106 is offered, the district court will consider its relevancy in the context of that trial. Third, Silkman argues the district court erred in excluding Exhibit 107, documents purporting to show the IRS did not properly assess deficiencies according to its own procedures. This contention is based upon Silkman's theory that proof of a valid assessment is essential when the defendant is accused of evading payment of a tax. However, we agree with cases holding that, while an assessment may be used

to prove a tax deficiency in a payment evasion case, an assessment is not a necessary element of a payment evasion charge. See Hogan, 861 F.2d at 315-16; Dack, 747 F.2d at 1174; Voorhies, 658 F.2d at 714-15. As the assessments in this case were simply evidence of the asserted deficiencies, Exhibit 107 was at best marginally relevant, and its exclusion was not error.

The judgment of the district court is reversed, and the case is remanded for a new trial.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

ISSUE 4: Did the district court err in denying admission of Silkman's proposed Ex. 107 into evidence?

As pointed out in Silkman's opening brief, income tax assessments are made upon a document called a Form 23C; see *United States v. Chila*, 871 F.2d at 1018; and *Geiselman v. United States*, 961 F.2d 1, 5 (1st Cir. 1992). Since the actual assessment against Silkman made on September 16, 1991, was of critical importance here, prior to trial Silkman submitted to the Government a discovery request (C.R.Doc. #20) seeking the production of the Form 23C at issue in this case. The Government never responded to that request and in anticipation of that eventuality, Silkman made a Freedom of Information Act request which secured that actual document, the Form 23C ("RACS Report 006") dated September 16, 1991. That reply constituted this tendered exhibit.

At tax trials, civil and criminal, the Government never offers into evidence this actual assessment document and it instead relies upon a document prepared for litigation purposes called a Certificate of Assessments and Payments; see *United States v. Buford*, 889 F.2d 1406, 1407-08 (5th Cir. 1989) ("The IMF is written in coded form. In order to decipher the codes, an 'A.D.P. code book' is needed... [T]he Certificates of Assessments were hand prepared, using information taken from the IMF"). Clearly, via what the *Buford* court stated, Certificates of Assessments and Payments are prepared for litigation purposes and these documents were used in the Government's case in chief. But it must be noted that documents prepared for purposes of litigation, like those here, are not typically admissible into evidence due to their inherent unreliability; see *Picker X-Ray Corporation v. Frerker*, 405 F.2d 916, 922 (8th Cir. 1969); and *Clark v. City of Los Angeles*, 650 F.2d 1033, 1037 (9th Cir. 1981).

In his opening brief, Silkman has demonstrated, via an abundance of authority, that tax assessments are made upon Forms 23C. Sometimes, these forms may be deficient as proved to be the case in *Brafman v. United States*, 384 F.2d 863 (5th Cir. 1967), where the Form 23C was unsigned. Here, the problem with the actual assessment made purportedly against Silkman on September 16, 1991, does not relate to the lack of a signature, as this one is in fact signed by an assessment officer. The problem with this assessment is that it failed to comply with the law by identifying that Silkman himself had been assessed specific amounts as income taxes for the years 1981 through 1985. Surely an assessment like this is void, and proof of that voidness is the actual assessment document at issue in this case, which was offered into evidence as defense Exhibit 107. A certified copy of this document is also in this record.

Like its argument against the admission of Silkman's Exhibit 106, the Government's reply to this issue is that this tendered exhibit was cumulative, confusing and irrelevant. It cannot be cumulative because there was no other evidence in this case of this nature which reveals upon examination that Silkman was not legally assessed. In fact, the exhibits offered by the Government, which had been prepared after Silkman had been indicted, asserted that Silkman had in fact been assessed. How could the sole impeachment evidence be cumulative? But further, there is nothing confusing about this exhibit. The law requires, at a minimum, that an assessment actually name the party assessed. Here, this one does not, which makes it legally deficient. While the Government might not like the document itself, there is nothing confusing in noting to a jury that the actual assessment at issue, in this case, failed to comply with the law, and did not identify Silkman himself as a party who had been assessed. The Government also contends that the exhibit was irrelevant because it did not identify Silkman, but this is the precise reason why this exhibit is relevant. This document was not a valid assessment against Silkman precisely because he was not identified therein, and it was relevant for this reason.

In this case, proving an actual assessment against Silkman was an element of proof needed to secure his conviction. The Government did not use the real assessment document dated and executed on September 16, 1991, but, instead, used documents it prepared for litigation. It is remarkable that the actual assessment in this case is not legal, and that illegality was shown via this proposed exhibit. This document perfectly rebutted those offered by the Government at trial. Clearly, refusal to admit this exhibit substantially affected Silkman's rights, and the outcome of this trial would have been different if this exhibit had been admitted. Thus refusal to admit it was error requiring reversal.

SECRET 23-C?

From Internal Revenue Manual 5300, Section 5311, "Assessment Authority":

1. The initial step in the collection process is to establish an account against a taxpayer by assessing the amount due and unpaid.
2. Section 6201 of the 1954 Code and regulations thereunder authorize and require District Directors and Service Center Directors, as appropriate, to make all the inquiries necessary to the determination and assessment of all taxes whether imposed by the 1954 Code or any prior internal revenue law.

Section 5312, Method and Time of Assessment

1. The assessment is made by an Assessment Officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs a form 23-C, Assessment Certificate. This record, through supporting data, provides identification of the taxpayer by name and number, the taxable period, the nature of the tax, and the amount assessed.
2. The date of assessment is the date that the form 23-C is signed by the Assessment Officer.

Next, let's go to IRM 3 (17)(63)(14), Account 6110 Tax Assessments.

1. All tax assessments must be recorded on form 23-C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity.

Next, ask the IRS by a FOIA request, "Please send me a copy of the 23-C document that pertains to me."

U.S. Supreme Court has ruled: "THE TAX IS NOT OWED UNTIL IT HAS BEEN ASSESSED."

No 23-C, No legal assessment!!!

For more information, order IRS Seminar Level II.

Contact: _____

VIP, C/O Box 463, Owensville, Ohio 45160 (513) 641-2221

Balance Due Account Procedures

5310 (11-15-85) Accounts Receivable— Assessment and Billing Procedures

5311 (11-15-85) Assessment Authority

(1) The initial step in the collection process is to establish an account against a taxpayer by assessing the amount due and unpaid. The assessment may arise under various provisions of law, but usually results from a return filed by a taxpayer on a prescribed form which discloses the facts upon which the assessment is made. The assessment may also result from an inquiry made or an investigation conducted by an internal revenue officer, either because a required return has not been filed or because a return as filed does not disclose the correct tax liability.

(2) Section 6201 of the 1954 Code and regulations thereunder authorize and require District Directors and Service Center Directors, as appropriate, to make all the inquiries necessary to the determination and assessment of all taxes, whether imposed by the 1954 Code or any prior internal revenue law. District Directors and Service Center Directors, as appropriate, are further authorized to determine and assess all taxes, including interest, additional amounts, additions to the taxes, and assessable penalties.

5312 (11-15-85) Method and Time of Assessment

(1) The assessment is made by an assessment officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs a Form 23-C, Assessment Certificate, and this record, through supporting data, provides identification of the taxpayer by name and number, the taxable period, the nature of the tax and the amount assessed.

(2) The date of assessment is the date that the Form 23-C is signed by the assessment officer. This date is particularly important in the collection process, since it establishes the beginning of the six-year statutory period for collection and is the date that the statutory lien, provided by IRC 6321 arises.

(3) Assessment lists and document registers are used to record assessments and are so designed that the listing of the amounts to be assessed is related to the taxpayer's identification number. The assessment lists support the assessment certificate, which is used to sum-

marize and record the official action of the assessment officer.

5313 (11-15-85) Jeopardy, Termination, Quick, and Prompt Assessment Procedures

5313.1 (11-15-85) General

(1) Jeopardy assessments are made when it is determined under IRC 6861 and 6862 or presumed under IRC 6867 prior to assessment that deficiencies of income, estate, gift and certain excise taxes will be endangered if regular assessment and collection procedures are followed. IRC 6862 applies to taxes other than income, estate, gift and certain excise taxes whether or not the due date for filing and paying such tax has expired.

(2) Termination assessment of income tax, IRC 6851, including terminations under the conditions described in IRC 6867 applies when the taxable year of a taxpayer has not ended or when the taxable year has ended but the due date, determined with respect to extensions, for filing the return has not arrived.

(3) All jeopardy assessments must be in full compliance with policy statement P-4-88 or P-4-89. At least one of the following conditions must exist:

(a) the taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself/herself

(b) the taxpayer is or appears to be designing quickly to place his/her or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to other persons.

(c) the taxpayer's financial solvency is or appears to be imperiled. (This does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, penalty and interest.)

(d) the taxpayer is in physical possession of cash, or its equivalent, in excess of \$10,000 who does not claim it as his/hers or as belonging to another person whose identity can readily be ascertained and who acknowledges ownership of it, so that the collection of tax on it is presumed to be in jeopardy within the meaning of IRC 6867.

MT 5300-1

5313.1
IR Manual

From	5300	IRM	25 ⁰⁰
	5400	IRM	25 ⁰⁰
	5200-9200	IRM	25 ⁰⁰
	1100	IRM	25 ⁰⁰
1997	6209	IRM	50 ⁰⁰
	18	IRM	35 ⁰⁰

Information for the use of the RACS system...

Law Enforcement Agencies are a source of information they provide if it substantially contributes to the recovery of Federal Taxes of \$50,000 or more, with respect to illegal drug or related money laundering activities.

(2) The Treasury Account Symbol for Anti-Drug Funds is 20X5099. All refund documents related to this fund must have Treasury Symbol 20X5099.

(3) This account will be supported by records contained in the RAF file within the RACS system. This account is reported on the SF 234.

(4) Copies of the documentation supporting these disbursements will be held in the GAO Site Audit file in accordance with Service Center Disposition Schedule 206.

Screen No.	Posts Account 5500 with:
050	Valid screen—no available transaction at present.
051	Cancellation of refund check on SF 1099.
052	Confirmation of paid copies of SF 1166 received from the Disbursing Office when checks are paid.

3(17)(63)(14)

Account Series 6000 Assessments and Settlements

This series of accounts record the assessment of tax liabilities and the incurrence of liabilities for fees, penalties or costs for services rendered. Also included in this series of accounts are settlements of accounts other than by payment. These include abatements, write-offs, transfers and clearances due to statute expiration. This series of accounts are nominal accounts and will be closed to the Revenue Clearance Account at the end of the accounting year.

3(17)(63)(14).1

Account 6110 Tax Assessments

(1) This account will be used to summarize the total amounts of assessments of taxes, penalties, interest and other additions to tax as provided by the Internal Revenue Code. The balance of this account represents total tax assessments for the year.

(2) All tax assessments must be recorded on Form 23C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity.

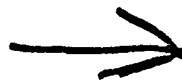
(3) The Assessment Summary File (ASF) is the subsidiary for this account within the RACS system. Total assessments for the month will be summarized on Form 2162 (generated) which will become an internal subsidiary.

Screen No.	Posts Account 6110 with:
040	Manual assessments of taxes, penalties and interest for NMF Unit Ledger cards. Also includes Prompt, Quick & Jeopardy Assessments manually prepared for one of the master files.
091	Additions to tax, penalties and interest associated with a manually processed subsequent debit document such as dishonored checks, F2424, F3809 etc.
092	Additions to tax, penalties and accrual interest associated with a manually processed credit document such as subsequent payments, F2424, unidentified applications, etc.

ode ray tube (CRT) for the input of all accounting control data, a posting table program that directs this data to the proper files in the data base; a data base made up of the General Ledger File and a variety of subsidiary files used in balancing and reporting from the system, such as, formatted reports; generation of all regular accounting financial reports and system maintenance reports. In addition the system software provides query capability and a special report capability.

(2) IRM 3(17)(63)0, Accounting Control, describes the RACS system in detail; explains each general ledger account; tells how to make error corrections, and gives detailed instructions for preparing documents for data entry.

3(17)(46)2.2 *new*
Journalization



(1) RACS replaces the various "paper" journal forms previously used to record accounting transactions. Journalization will be accomplished by input to RACS terminals. Posting to the General Ledger accounts will be accomplished by RACS.

(2) Direct references to specific General Ledger accounts will be minimized in this IRM as IRM 3(17)(63)0 provides the necessary accounts.

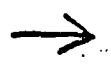
(3) All references to journalization mean input to RACS. All accounting transactions must be journalized to ensure effective accounting control. Journalization instructions will reference the specific RACS screen numbers to be used.



3(17)(46)2.3 *new*
Certification



(1) All assessments must be certified by signature of an authorized official on Form 23-C, Assessment Certificate. A signed Form 23C authorizes issuance of notices and other collection actions.



(2) Most actions prescribed by this Chapter will be summarized on a Form 23-C prepared by RACS weekly.

(3) Some assessments are prescribed for expeditious action and will be certified on a daily basis. These assessments will require immediate preparation of Form 23-C from RACS.

(4) Each block folder of assessment source documents should be stamped with the following impression:

ASSESSMENT JOURNALIZED

23C _____

By _____
(Initials-Journal Clerk)

3(17)(46)2.4 *new*
Certification of Overassessments

(1) The following instructions pertain to NMF accounts that have an existing ULC:

(2) Receive part 2 of Forms 1331/1331B indicating overassessment of NMF accounts and the disposition of the overassessed amount, i.e., as a refund, credit or abatement.

(3) List Forms 1331/1331B on Form 813, separately summarizing the amounts to be refunded, credited or abated.

RECORD OF ASSESSMENT - FORM 23C

ADMINISTRATIVE PROCEDURE

In the decision on the case of Bull v. U.S., 295 US 247, the U.S. Supreme Court explained exactly when an income tax becomes due and owed to the IRS. The Court stated:

"The assessment ... may include the calculation and fix the amount of tax payable, and assessments of federal estate and income tax are of this type. Once the tax is assessed, the taxpayer will owe the sovereign the amount when the date fixed by law for payment arrives." (emphasis added)

According to the very clear wording of the decision of the U.S. Supreme Court, THE TAX IS NOT OWED UNTIL IT HAS BEEN ASSESSED.

Section 6203 of the IR Code describes the procedure for making an assessment. It states:

"The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary."

The IRS regulation explaining Section 6203, #301.6203-1 states:

"The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown."

Both Section 6203 of the IR Code and IRS Regulation 301.6203-1 state that information about assessments is available from the IRS upon request. The regulation states:

"... he (the taxpayer) shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of the assessment, the character of the liability assessed, the taxable period, if applicable, and the amount assessed."

The assessment shall be made by recording the liability of the taxpayer, 286 F2d 453, 464 N. 17. This is affirmed by treatises on taxation. In 34 Am. Jur. 1d, Section 9122, 1986, it was stated:

"The assessment is made when the appropriate official in the director's office (or service center) signs a summary record sheet which contains the taxpayer's name, address, the amount of the tax, the type of tax and the taxable period."

Likewise, in Mulronev's Federal Tax Examination Manual, 1986, Section 12.4(a) Assessment Process, it was stated:

"An assessment occurs when a Revenue Service assessment officer signs a summary record which is supported by a list that identified the taxpayer, the type of tax, the amount assessed, and the taxable year or period to which it relates. The assessment date is the day on which the summary record is signed."

The statute and regulations promulgated thereunder are clear on their face and the actual date signing by the assessment officer is the date of assessment, and the summary record sheet or list posted to the sheet must contain the taxpayer's name, address, the amount of the tax, the type of tax and the taxable period. These requirements were succinctly stated in Brafman v. U.S., 384 F2d 863 (5th Cir. 1967), at p. 867 as follows:

"It appears to us that the requirement of the applicable Treasury Regulation - that an assessment officer sign the assessment certificate - is consistent with literally mechanical procedures for recording of liability. The recordation is to be accomplished through machine operations, but the actual and final assessment, that step which establishes a prima facie case of taxpayer liability (26 CFR 601.104) can be taken only with approval of a responsible officer of the Internal Revenue Service. The Government may want to postpone assessment in certain cases because of the limitations on collection and lien perfection that begin to run at the time of assessment. This might be accomplished, after the computers have run their course, only by the assessment officer refusing to sign the already prepared certificate. What is important in any case is that assessment is not automatic upon recordation; it requires the action of an assessment officer. That action, as defined explicitly in the Treasury Regulations, is the signing of the certificate."

"If the assessment procedure is not followed, the assessment is void and the executions based thereon are invalid." U.S. v. Conner 291 F2d 520 (2nd Cir. 1961) and Iannelli v. Long, 329 F. Supp. 1241 (W.D. Penn. 1971).

The Department of the Treasury has further explained the procedure for making the assessment in Internal Revenue Manual 5312-1(1), MT 5300-1 (11-15-85), which states:

"The assessment is made by an assessment officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs Form 23C, Assessment Certificate, and this record, through supporting data, provides identification of the taxpayer by name and number, the taxable period, the nature of the tax and the amount assessed."

And further:

"On any date, the total tax liability of all taxpayers for each type of tax to be assessed on that day is summarized on Form 23C, "Assessment Certificate." It sets forth the type of tax to be assessed on the date. When signed by an assessment officer in the service center, it constitutes an assessment for purposes of the Code."

--IRS Practice and Procedures, Section 10.02 (1981)
M. Salzman

Section 6203 of the Internal Revenue Code of 1986 authorized the Secretary or his delegate as the responsible person to execute the Form 23C Assessment Certificate. In order to effectuate this statutory mandate, Treasury Regulation 301.6203-1 was duly promulgated. Section 6203 specifies that an assessment shall be made by recording the liability of the taxpayer in the office of the Secretary or his delegate. The Treasury Regulations set forth the procedures governing the assessment process as follows:

"The District Director shall appoint one or more assessment officers, and the assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period if applicable, and the amount of the assessment. The amount of the assessment shall in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list

of records. The date of the assessment is the date the summary record is signed by an assessment officer. Treasury Reg. 301.6203-1

Further the courts have held that a taxpayer has the right to challenge the assessment procedures.

"A taxpayer may challenge the IRS compliance with assessment procedures in district court. See, e.g. Aqua Bar & Lounge, Inc. v. United States Department of Treasury, 539 F.2d 935-40 (3rd Cir 1976); United States v. Coson, 286 F2d 453 (9th Cir 1961). To the extent his complaint alleges procedural violations committed by the IRS in assessing tax deficiency, Smith may bring this action against the government in this court."
--Smith v. Malone, No. C88 340A (D.C.W.D. Wash., Decided July 15, 1988).

The statutory requirements must be satisfied before a valid assessment creating a tax liability exists. The combined mandates of 26 USC 6203 and Treas. Reg. 301.6203-1 were explained in the case of U.S. v. Coson, 286 F2d 453 (9th Cir 1961) as follows:

"(T)he trial judge who held that the assessment was void as against Coson because the Taxes were never assessed to Coson, the record of assessment in the office of the Bureau making no reference whatever to Coson. The Government argues that there is no requirement that an assessment be made against any person. Although our decision as to the lack of proper notice or demand is sufficient to dispose of the case, it would appear that the trial court was right in holding the assessment was insufficient for failure to comply with the statutory requirements."

In a footnote to this statement the Coson Court quoted 26 USC 6203, and the Court supplied emphasis to the sentence:

"The assessment shall be made by recording the liability of the taxpayer."

The Court further quoted the Regulation, 301.6203-1 and supplied emphasis to the sentence:

"The summary record of assessment, through supporting records, shall provide identification of the taxpayer."

This is affirmed by treatises on taxation. Further the court in Iannelli v. Long, Supra; stated:

"The procedure for assessment provides, inter alia, that the assessment officer shall sign the summary record of assessments made against any taxpayer, that said action, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period as applicable, and the amount of the assessment. The date of the assessment is the date the summary record is signed by an assessment officer. 26 U.S.C.A. 6203 and 301.6203-1 of the Code of Federal Regulations. Since this procedure was not followed, the assessment is void and the executions based thereon are invalid."

STATUTORY NOTICE

NOTICE OF ASSESSMENT

26 U.S.C. 6303

NOTICE ON DEMAND FOR TAX.

"(a) General Rule. - Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person or shall be sent by mail to such person's last known address."

26 U.S.C. 6155

PAYMENT ON NOTICE AND DEMAND.

"(a) General Rule - Upon receipt of notice and demand from the Secretary, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additional to tax, and assessable penalties) stated in such notice and demand."

The Third Circuit in a recent case explained that the notice and demand pursuant to section 6303(a).

"(N)ot only requires the government to give notice to each person liable for the amount of the tax, it also requires notice of a particular kind: i.e., one 'stating the amount and demanding payment thereof.' In other words, a section 6303(a) notice consists of two discrete statements: (i) notice of the amount that has been assessed and (ii) a demand that the individual presently satisfy that assessment. Thus the plain language of the statute envisions a notice not unlike a typical creditor's dunning letter, providing the individual receiving it with one last opportunity to pay the taxes before the government invokes the full panoply of its administrative collection powers. See generally M. Saltzman, IRS Practice and Procedure, Section 14.01 (1981) (comparing tax collection with debt collection under the Uniform Commercial Code): see also id, Section 14.03 (describing the processing of tax collection ca-

ses); McGregor & Davenport, Collection of Delinquent Federal Taxes, 28 S. Cal Tax inst. 589, 761-82 (1976) (Describing the process of collecting delinquent withholding taxes)." Jersey Shore State Bank 781 F.2d, at 978."

--United States v. Jersey Shore State Bank, 781 F.2d 974 (3rd Cir. 1986).

The final step in the assessment process before collection of the tax is the notification of an assessment having been pursuant to 26 USC 6303(a). Such "Notice of Assessment and Demand" must be served upon the taxpayer within 60 days from assessment. The Secretary's failure to send a notice and demand nullifies the assessment and any action the Service may have attempted to collect the amount assessed. No lien can arise, nor can a levy be effective, absent a notice and demand. M. Saltzman, IRS Practice and Procedure, at 14.06. See United States v. Cason, 286 F.2d 453 (9th Cir. 1961); Bauer v. Foley, 404 F.2d 1215 (2d Cir. 1968), on rehearing, 408 F.2d 1331 (2d Cir. 1969) effect on lien of no, or faulty notice); L.O.C. Indus., Inc. v. United States, 423 F Supp. 265 (M.D. Tenn. 1976) (no notice and demand prior to levy; held, seized funds must be returned); Mrizek v. Long, 176 F. Supp. 830 (N.D. Ill. 1959) (levy served five days before notice and demand: held, invalid); see Shapiro v. Secretary of State, 499 F.2d 527, 531 n. 12 (D.C. Cir. 1974) aff'd 424 US 614 (1976) ("In the present case there are allegations that the Commissioner failed to provide the taxpayer the required notice prior to serving 'Notices of Levy' on the taxpayer's New York banks. If so, then the Commissioner may well have violated Shapiro's right to due process")' Cf. Jenkins v. Smith, 99 F.2d 827 (2d Cir. 1938).

The Supreme Court affirmed the Third Circuit's decision in Jersey Shore State Bank. See Jersey Shore State Bank v. United

States, 107 S. Ct. 782 (1987).

Internal Revenue Form 17A has historically been used as the official notice and demand pursuant to Section 6303(a). This form was designed to satisfy the statutory mandate. The Form states:

"NOTICE AND DEMAND FOR INCOME TAX.

"Notice is hereby given that there has been assessed against you the amount of tax stated on this notice. Demand is hereby made for the immediate payment of said tax."

The form further advises when the summary record of assessment was made, pursuant to what list, the page number on the list that the taxpayer is recorded on and even the line number, etc. Mertens Law of Federal Income Taxation, Vol. 13, July 1987 Monthly Updates, Section 49. 187, identifies Form 17 as the "Notice of Assessment and Demand." Also see Pizzarello v. United States, 285 G. Supp. 147 (S.D.N.Y. 1968) which identifies Form 17-a. Further, United States v. Pavenick 197 FSupp. 257 (D.N.J. 1961), the Court said:

"Therefore, upon proof of demand, the Government lien arises at the time of assessment by the collector. However, the evidence presently before me does not suffice to establish the Government's asserted lien because proof of its demand for payment of the amounts assessed has not been furnished. The mailing of form 17, Statement of Taxes Due (First Notice and Demand) referred to in the affidavit of Vincent P. McGinley, Acting Chief Accounts -- Maintenance Section, Supervisor of Account Card Unit in the Office of the Newark District Director of Internal Revenue, is therein stated to be disclosed by the records of his office; but neither those records nor copies thereof, as provided by 28 USC 1733, have been presented to me in support of this hearsay statement set forth in the affidavit."

The first notice and demand must be pursuant to Section 6303-(a) in the nature of a "Notice of Assessment", identifying the assessment list that was signed by an assessment officer. A second notice and demand is also mandated by Section 6331(d)(1).

The "Notice of Assessment and Demand" for payment completes the Secretary's statutory mandate for collection of a tax. Due notice and demand are the prerequisite to further proceedings to collect, either by distraint or by suit. If the Secretary fails in his mandate pursuant to Section 6303(a), he will lose his power to collect the tax by distraint. See Jenkins et al. Ex'rs v. Smith 21 F.Supp. 433 (1937).

Even if a notice and demand is left or sent but not within the sixty days of the assessment date, the assessment-collection would similarly be nullified by the statutory language. United States v. Lorson Elec. Co 72-2 USTC 9614 (S.D.N.Y. 1972); Macatee Inc. v. United States, 214 F.2d 717 (2nd Cir. 1954); Georgia-Pacific Corp. v. Lazy Two T Ranch, 76-2 USTC 9666 (C.D. Cal 1976).

If all taxes payable pursuant to the 'Notices of Assessment and Demand for Payment' are not paid, the ten day letter is issued:

"If the taxes due are not paid within the time set forth in notice on Form 17, the collector will at once issued demand for the same, with penalty and interest, on Form 21, and if not paid within 10 days after service of Form 21, From 69 (distraint warrant) must be at Once issued (p.166)."

--Treasury Regulations No. 1 Revised Nov. 1, 1917

The early regulations are almost identical with the procedures under the 1954 and 1986 Code. First, an assessment must be made before there is any tax liability (Form 23C, pursuant to 26 USC 6201 & 6203). Second, a Notice of Assessment must be issued (Form 2162, pursuant to 26 USC 6303(a). Third, in case of nonpayment, the Demand Notice will be issued demanding payment within ten days. It can be plainly seen by the above, that proper procedure must be followed, or collection fails. But only if you have done your homework and called their bluff.

**ARTICLE IX. AUTHENTICATION
AND IDENTIFICATION****RULE 901. REQUIREMENT OF AUTHENTICATION
OR IDENTIFICATION**

(a) **General Provision.** The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) **Illustrations.** By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) *Testimony of Witness With Knowledge.* Testimony that a matter is what it is claimed to be.

(2) *Nonexpert Opinion on Handwriting.* Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.

(3) *Comparison by Trier or Expert Witness.* Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.

(4) *Distinctive Characteristics and the Like.* Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(5) *Voice Identification.* Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(6) *Telephone Conversations.* Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.

(7) *Public Records or Reports.* Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

(8) *Ancient Documents or Data Compilation.* Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence 20 years or more at the time it is offered.

(9) *Process or System.* Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(10) *Methods Provided by Statute or Rule.* Any method of authentication or identification provided by Act of Congress or by other rules prescribed by the Supreme Court pursuant to statutory authority.

RULE 902. SELF-AUTHENTICATION

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) **Domestic Public Documents Under Seal.** A document bearing a seal purporting to be that of the United States, or of any State, district, Commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) **Domestic Public Documents Not Under Seal.** A document purporting to bear the signature in the official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) **Foreign Public Documents.** A document purporting to be executed or attested in an official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) **Certified Copies of Public Records.** A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority.

(5) **Official Publications.** Books, pamphlets, or other publications purporting to be issued by public authority.

(6) **Newspapers and Periodicals.** Printed materials purporting to be newspapers or periodicals.

(7) **Trade Inscriptions and the Like.** Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) **Acknowledged Documents.** Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) **Commercial Paper and Related Documents.** Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) **Presumptions Under Acts of Congress.** Any signature, document, or other matter declared by Act of Congress to be presumptively or prima facie genuine or authentic.

[Amended effective October 1, 1987; November 1, 1988.]

RULE 903. SUBSCRIBING WITNESS' TESTIMONY UNNECESSARY

The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

RULE 1001. DEFINITIONS

For purposes of this article the following definitions are applicable:

(1) **Writings and Recordings.** "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) **Photographs.** "Photographs" include still photographs, X-ray films, video tapes, and motion pictures.

(3) **Original.** An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original".

(4) **Duplicate.** A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of

Send 20⁰⁰ to
VIP, Box 463
Owensville, Ohio
45160
for your complete
copy.

- (25) 720 Returns Delinquency Checks
- (26) 721 Delinquent Accounts
- (27) 723 Unpostables
- (28) 724 Clearing and Deposit
- (29) 729 Correspondence
- (30) 730 Payment Tracers
- (31) 731 Research Operations
- (32) 735 Intelligence Information and Control
- (33) 739 MCC Data Controls
- (34) 775 Audit Information Management System (AIMS)

30(55)2 (1-1-96)**Concept of the Individual Master File (IMF)**

→ (1) The Individual Master File is a magnetic tape record of all individual income tax filers, in Social Security Number sequence, and is maintained at the Martinsburg Computing Center. All tax data and related information pertaining to individual income taxpayers are posted to the Individual Master File so that the file reflects a continuously updated and current record of each taxpayer's account. All settlements with taxpayers are effected through computer processing of the Individual Master File account and the data therein is used for accounting records, for issuance of refund checks, bills or notices, answering inquiries, classifying returns for audit, preparing reports and other matters concerned with the processing and enforcement activities of the Internal Revenue Service.

(a) Design—The Individual Master File is designed to accumulate in each taxpayer's account all data pertaining to the income taxes for which the taxpayer is liable. The Account is further sectionalized into separate tax periods (Tax Modules) each reflecting the balance, status, and transactions applicable to the specific tax period. This includes the returns filed, assessment, debit and credit transactions, and all changes made to the filed tax returns.

(b) Taxpayer Accounts—Each taxpayer account has an Entity Module and one or more Tax Modules. In addition to MFT 30 tax modules, an IMF account may have Civil Penalty modules (MFT 55) effective 1/1/85.

(c) Entity Module—The Entity Module contains data which describes the taxpayer as an entity and which applies to all records of the taxpayer. Detailed processes for establishing and maintaining the Entity Module are contained in Project 439 (IMF Account Numbers). This entity module contains groups of data which are maintained in separate sections as follows.

1 Entity Section—Contains Taxpayer's Name Control, Check Digit, SSN, and Spouse's SSN; name under which each income tax return was filed; current address and ZIP Code; District and Area Office handling the account (and District and Area Office holding TDA's if different); month in which taxpayer's tax year ends; type of tax return package to be mailed to taxpayer; indicators to show presence of open balance tax modules and/or TDA modules; account freezes and holds. Civil Penalty Name data may also be present.

2 Transaction Section—contains transactions which created or updated the entity module.

3 Deferred Action Section—Shows the cycle during which specified actions are to be taken, e.g., mailing 2nd notices, placing an account in TDA status, etc.

FREEDOM OF INFORMATION ACT REQUEST

Disclosure Officer
Internal Revenue Service
PO Box 145500, Stop 68
Cincinnati, Ohio 45250-5500

Account #:

Dear Officer:

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).

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.

I am attesting under penalty of perjury that I am a category E requester. **PLEASE EXPEDITE THIS REQUEST.**

This request pertains to the years:

1. Please send Requester a copy of all documents maintained in the system of records identified as Individual Master File (IMF) *specific and not literal*; Data Service, Treasury/IRS 24.030, which pertain to this Requester.

Dated:

Respectfully,

Requester

I understand the penalties provided in 5 USC 552a(i) (3) for requesting or obtaining access to records under false pretenses.

Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

DISTRICT
DIRECTOR

320 Federal Place, Room 409
Greensboro, NC 27401

P. O. Box
5

Person to Contact:
E. Williamson
Telephone Number:
(336) 378-2274
Refer Reply to: 56-1999-142
Date:

NOV 17 1998

Dear Mr.

This is in response to your Freedom of Information Act (FOIA) request, dated October 21, 1998, and received in this office on October 23, 1998.

You requested your Individual Master File (IMF) "Specific" transcripts for tax years 1995, 1996, and 1997.

We are enclosing 3 pages of documents that are responsive to your request. Each of these pages has been partially denied. The exemption being asserted under the FOIA, (b)(7)(E), is explained below.

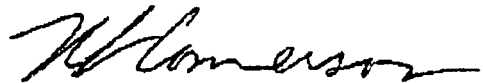
Subsection (b)(7)(E) is being asserted with regards to the deleted parts the disclosure of which could, in the opinion of the IRS, disclose the investigative techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Since we are denying a portion of the requested records, I am enclosing Notice 393, which explains appeal rights under the FOIA.

There is no processing fee applicable to your request.

If you have any questions, you may contact me or a member of my staff on the telephone number provided above.

Sincerely yours,



R.L. Commerson
Disclosure Officer

Enclosures

In Item 22 you requested a decoding manual. Document 6209, ADP and IDRS Handbook contains information which would be responsive to this request. The most recent version edited and available for public distribution at this time is the 1991 edition. The cost for Document 6209 is \$70.05, computed at .15 cents per page. Under the Freedom of Information Act, the first 100 pages are free. Therefore, if you wish to purchase the Document 6209, please subtract \$15.00 from the cost and submit your check or money order for \$55.05 to:

Chief, FOIA/Privacy Section
Internal Revenue Service
P. O. Box 795
Washington, D.C. 20044

Document 5576 is enclosed to assist you in reading the various codes appearing on the transcripts.

Notice 393 is also enclosed to explain your appeal rights.

Sincerely yours,

Michael Ballentine
Michael Ballentine
Disclosure Officer

Enclosures

1997 6209 De Code IRM

50⁰⁰

FREEDOM OF INFORMATION ACT REQUEST

TO:

FROM:

Department of the Treasury
Internal Revenue Service
FOIA Disclosure Officer

Account#

Dear ~~XXXXXXXXXX~~,

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 is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: _____
5. Please send a copy of the front and back of the document identified by Document Location Number (DLN) _____ (14 digit number) for the year _____ which pertain to the above referenced account number and individual.

DATED:

Respectfully,

, Requester

Notary:

State of)

) ss

County)

On this ____ day of _____, 2000, before me, _____ a Notary

(6) Special procedures for NMF returns and documents:

→ (a) Always use Tax Class 6. The first digit in the blocking series will identify the true tax class →

(b) Advance and subsequent payments

1 Document Codes

- a 27--Subsequent payment
- b 28--TDA portion of split remittance rec'd from District Office
- c 62--Advance payment
- d 74--Including Sale of acquired property
- u 60--Miscellaneous Excise

2 Blocking Series

- a 100-149--Withholding and FICA
- b 200-249--Individual Income Tax
- c 300-349--Corporation Income Tax
- d 400-474--Excise Tax (including Child Support)
- e 475-499--Proposed TIRA Penalties
- f 441-444--Form 943
- g 445-449--Form 921 only
- h 450-474--Return Preparers Program
- i 475-499--Aiding, Abetting, & Frivolous Penalties
- j 400-999--REMIC
- k 500-524--Estate Tax
- l 525-549--Gift Tax
- m 700-749--Railroad Retirement
- n 800-849--FUTA

38(43)4.4

RPS Control/Pre-Batch

(1) Prepare an original Form 1332A, RPS Block and Selection Report for each group of like documents processed through RPS. Note: Primary transaction codes cannot be combined within the same block. See Exhibit 38(43)0-7.

(a) For blocks of perfect Notices, enter 670 in "Transaction Code" box. For all other blocks containing subsequent payments, enter "680" in "Transaction Code" box. Except for blocks of perfect Underraportage Notices, enter TC 640 in "Transaction Code" box.

(b) For blocks requiring a secondary TC 570, enter "660/570" in the "Transaction Code" box.

(c) Enter transaction code 610 for all returns. (See LEM III.)

(d) Enter transaction code 660 for 1041 estimated payments.

(e) Enter transaction code 410 for 1040 estimated payments.

(f) Enter transaction code 680 for 4868 extensions.

(g) Do not enter Count Code. When preparing groups of like MFT documents to go to the RPS Original Entry, estimate volume of blocks.

(2) If small blocks of like documents are received, prepare a consolidated Form 1332A. Reduce the number of small blocks being processed by combining MFT codes within the same tax class (Doc. Code 17 or 18). Enter TC 680 on Form 1332A. When combining MFT codes (with same tax class) place like MFT codes together. See Exhibit 38(43)0-9.

(3) Prepare Form 4913, Remittance Processing System Batch Control Sheet, or Form 2345, Batch Transmittal, for each batch of RPS documents. See Exhibit 38(43)0-11.

IMF BMF IRAF EPMF

First name line

DLN

Note: Shaded blocks refer to IMF

From		To													
Name control	Check digit	Name control	<input type="checkbox"/> EIN	<input type="checkbox"/> SSN	IRA	KEO	FY/Mo.								
<input type="checkbox"/> EIN	<input type="checkbox"/> SSN	Years digits	709 per. ending	SCA SSN indicator	FSC	<input type="checkbox"/> EIN (Spouse SSN/cross-reference)	<input type="checkbox"/> SSN								
Trans. Code	Purpose	Date	EFF date	EMP CD	POA Ind.	MT FTD CD	Sch. A CD	Date of death							
000	Add account	Filing Requirements	IMF	BMF 1	BMF 2	BMF 3									
020	Remove account		941	1120	720	942	1041	1065	CT-1	940	943	NR	4638	2290	11
030	Transfer location codes		BMF 4		BMF 5		EPMF								
011	Change EIN or SSN		11B	11C	730	990-T	5500	5500C	5500K	MFT 75	5500G				
012	Reopen account														
013	Change name	First name line													
014	Change address	Second name line													
015	Change location or ZIP	Third name line (not used for IMF)													
016	Change misc. codes	Fourth name line (not used for IMF)													
017	Change spouse SSN											RRB number			
040	To valid segment														
041	To invalid segment														
070	Social security cov. (BMF)														
090	Small business (BMF)	Street address													
091	Rev. Small business	City													
				State				ZIP Code		DO		Area			
Prepared by	Org. symbols	District off.	Prepared from (Document and DLN)						Routing to						

70

IMFOLT 309212P01 IMF TAX MODULE
172101349005116

NM CTRL: PAGE 01
SP-SSN UP-CYC:18
STATUS DATE:080994

----- ASSESSD BALANCE .00
 CSED 02-03-2007 ②: TOTAL INTEREST: .00
 ASED: Assessment ③: INT. ASSESSED: .00
 RSED: 04-15-1996 : INTEREST PAID: .00
 FREEZE CDS: -LR : FTP TOTAL: .00
 : FTP ASSESSED: .00
 CURRENT MF STATUS:06 ④ FSC: 1 TOTAL EXEMPTIONS: 01 TDA COPYS : ⑥ TC914:0
 INDICATORS: ARDI : 0
 EFT-IND: 0 RTN: ④ ⑤ ACCT CD: BANK ACCT NUM: DDRC : 00
 TC DATE AMOUNT CYCLE DLN VARIABLE DATA
 150 020397 ⑦ .00 9704 17210-349-00511-6 RECEIVED-DATE: 120996
 924 051394 .00 9420 31249-133-00000-4 REF-NUM:118 REF-AMT: 3,418
 140 051394 .00 9420 31249-133-00000-4 ⑪
 595 121394 .00 9451 17249-747-00260-4 ⑪ ⑫
 425 112696 ⑧ .00 9649 31277-331-20000-6 ⑪ AIMS-SRC-CD:24 AIMS-ORG-CD:2931
 ⑨ ⑩ PROJ:037 PTR-DO:00
 570 020397 .00 9704 17210-349-00511-6 ⑪
 420 012497 .00 9706 31277-024-00000-7 AIMS-CTL-NUM:24293131

⑫+ PAGE 001 OF 001 >IMFPG 001
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IMFOLR 309212 IMF POSTED TC150 RETURN NM CTRL: PAGE 01
17210-349-00511-6 UP-CYC:18

MATH ERR: ES DISC: SELF:1
 SCHEDULE C:N HIGH-INC:0 CYCLE:9704 POSTING DATE:12-09-96 SPOUSE:0
 SCHEDULE D:N PREPARER CODES: POLITICAL CHECKOFF:0 CHILDREN HOME: 0
 SCHEDULE F:N PIA CODE: ELDERLY CREDITS:0 CHILDREN AWAY: 0
 FORM 2119: N DELINQUENT MOS.: ⑮ ES TAX FORGIVNESS:00% PARENTS AT HOME:0
 ESP-IND: 0 BUSINESS EIN: ⑮ FTP START DT:02-13-97 OTHER CHILDREN: 0
 FORM 2555: N SCHEDL F EIN: RET PROCESS: OTHER EXEMTNS: 0
 INDS: ⑭ EIC EXEMPTION: 0

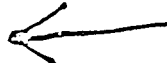
.00 : WAGES ISSC: CISSC:1
 .00 : INTEREST INCOME .00 : TOTAL ITEMIZED DED
 ⑯ .00 : TAXABLE INCOME .00 : WITHOLDING/EX FICA
 .00 : PRIMARY SE INCOME .00 : REMITTANCE WITH RETURN
 .00 : SECONDARY SE INCOME .00 : CREDIT ELECT/UNAPPLIED
 .00 : TOTAL POSITIVE INCOME .00 : TOTAL TAX
 .00 : PRIM SS MEDICARE INCM .00 : SE TAX
 .00 : SEC SS MEDICARE INCM .00 : TOTAL TAX (LESS IRA)
 .00 : PRIM UNRPTD TIP INCOME .00 : TENTATIVE TAX (COMP)
 .00 : SEC UNRPTD TIP INCOME .00 : ADVANCED EIC
 .00 : PRM MEDICARE TIP INCM .00 : ES TAX CREDIT
 .00 : SEC MEDICARE TIP INCM .00 : ES TAX BASE
 .00 : AGI 3,774.00 : PRIOR ES TAX BASE

PAGE 001 OF 001 >IMFPG 001
IDRS3EX.ASX | VT100 | FDX | 9600 N81 | LOG CLOSED | PRINT OFF |

- ① CSED = collection Statute Expiration Date
- ② AIMS = Audit Information Management Systems
- ③ SRC = secured Returns Code
- ④ FSC = Filing Status Code (form 1040 Series)
- ⑤ IDRS = Integrated Data Retrieval System
- ⑥ FTP = Failure to Pay

Exhibit 400-8 Cont. (1)

Activity Codes
appears on Form 5546 as Item 20



Send for your
Form 5546 for
it's equivalent.
It's probably
going to say
that you are
being taxed for
doing ONE
of these
Privileges!

Code	Description	Class
125	Delicat Bus Farm—Under \$10,000	
126	Bus Farm—Under \$10,000	
127	Bus Farm—\$10,000 Under \$30,000	423
129	Bus Farm—\$30,000 and Over	425
130	Delicat Bus, Non-Farm—Under \$10,000	427
131	Bus, Non-Farm—Under \$10,000	429
132	Bus Non-Farm—\$10,000 Under \$30,000	431
134	Bus Non-Farm—\$30,000 and Over	433
135		435
136		437
137		439
180	Ordinary Loss, \$25,000 or More	
181	Ordinary Loss, Under \$25,000	
182	Ordinary Profit, zero or more, but Under \$25,000	Employer
183	Ordinary Profit, \$25,000 or More	464
184		465
185		466
186		467
187		468
188		469
189		470
190		471
191		472
1120S	Corporation Assets (Taxable)	
202	No Balance Sheet	
204	Under \$50,000	
206	\$50,000 Under \$100,000	
208	\$100,000 Under \$250,000	
210	\$250,000 Under \$500,000	
212	\$500,000 Under \$1,000,000	
214	\$1,000,000 Under \$5,000,000	
216	\$5,000,000 Under \$10,000,000	
218	\$10,000,000 Under \$50,000,000	
220	\$50,000,000 Under \$100,000,000	
222	\$100,000,000 and Over	
1120 DISC		
224		
1120 (Including 1120L, 1120M, 1120PH)		
203	No Balance Sheet	
205	Under \$50,000	
207	\$50,000 Under \$100,000	
209	\$100,000 Under \$250,000	
211	\$250,000 Under \$500,000	
213	\$500,000 Under \$1,000,000	
215	\$1,000,000 Under \$5,000,000	
217	\$5,000,000 Under \$10,000,000	
219	\$10,000,000 Under \$50,000,000	
221	\$50,000,000 Under \$100,000,000	
223	\$100,000,000 Under \$250,000,000	
225	\$250,000,000 and Over	
1120-F		
243	No Balance Sheet	
245	Under \$50,000	
247	\$50,000 Under \$100,000	
249	\$100,000 Under \$250,000	
251	\$250,000 Under \$500,000	
253	\$500,000 Under \$1,000,000	
255	\$1,000,000 Under \$5,000,000	
257	\$5,000,000 Under \$10,000,000	
259	\$10,000,000 Under \$50,000,000	
261	\$50,000,000 Under \$100,000,000	
263	\$100,000,000 Under \$250,000,000	
265	\$250,000,000 and Over	
1120S		
237	(Non-Taxable)	
403	Gross Estate	
405	Under \$50,000	
407	\$50,000 Under \$100,000	
409	\$100,000 Under \$150,000	
	\$150,000 Under \$250,000	

Class	Description
514	Form 720—Procs. & Comcs. Aviation Fuel/Gasoline
522	Form 720—F & S. Telephone Services
526	Form 720—F & S. Transportation by Air
527	Form 720—F & S. Use of International Air Travel Facilities
528	Form 720—F & S. Transportation Property by Air
530	Form 720—F & S. Policies Issued by Foreign Insurers
531	Obligations to Register
532	Form 720—Mfgs. Pistols and Revolvers
533	Form 720—Mfgs. Trucks, Buses, Chassis and Body
534	Form 720—Mfgs. Other Auto Chassis
536	Mfgs. Underground Coal Mines 50 cents
537	Mfgs. Underground Coal Mines 2%
538	Mfgs. Surface Coal Mines 25 cents
539	Mfgs. Surface Coal Mines 2%
540	Form 720—Mfgs. Automobile Gas Guzzler
544	Form 720—Mfgs. Fishing Equipment
546	Form 720—Mfgs. Bows & Arrows
548	Form 720—Mfgs. Firearms
	Form 720—Mfgs. Truck Parts & Accessories
549	Form 720—Mfgs. Cartridges and Shells
550	Form 720—Procs. and Comcs. Quarterly Windfall Profits
551	Alcohol Sold But Not Used As Fuel
552	Procs. and Comcs., Annual Windfall Profits
553	Procs. and Comcs., Petroleum
554	Procs. and Comcs., Chemicals
555	Hazardous Waste
560	Form 720—Procs. and Comcs., Sugar
561	Form 720—Procs. and Comcs., Diesel & Special Motor Fuel
562	Form 720—Procs. and Comcs., Gasoline
563	Form 720—Procs. and Comcs., Lubricating Oil
564	Form 720—Procs. and Comcs., Fuel and Waterways
566	Form 720—Procs. and Comcs., Trees
567	Form 720—Procs. and Comcs., Inner Tubes
568	Form 720—Procs. and Comcs., Tires

425a

①
AMDISA
 PRIMARY-NAME>
 ASED>04/EE/96X
 SOURCE-CD>24 REFUSAL TO FILE TDI

②
MFT 30 TX-PRD>9212

NM-CTRL>
 JULIAN-DT>
 OPNG-CRTN/TRANSFR-DT>01/2
 EXAM-START-CYC>97/03

DIF-REASON-CODE>R
ACTY-CD>533 ③

STATUTE-XTRCTN-IND>1 PARTIAL-AGRMT-IND>0 **TC-300-IND>0**
 DO/SC>31 POD>93
 CURRENT-STATUS-CD/DT PR-STATUS-CD/DT
 25 PRE 90-DAY 04/28/97 51 ESP
 2931<ORG-CD 0000<PR-ORG-CD
 PROJ-CD>168 RET-NOT-REQ

UPDT-CD>E PR-UPDT-
 PDCF-CD>0 ⑤
 XREF-DLN>312773312000
 RET-PSTNG-YR>97
 ⑥ **AIMS-SER-NUM>3105813**

RETURN-RECVD-DT>12/09/96 DELQ-RET-IND>1

NM-LN-YR>92 PRIMARY-NM-LN>
 CONTINUATION-OF-PRIMARY-NAME>
 ACT-IND>1 STREET>
 CITY>CINCINNATI

⑦
Employee #3161014089 Page 001 of 002 >PAGE 002
 IDRS3EX.ASX | VT100 | FDX | 9600 N81 | LOG CLOSED | PRINT OFF |

② MFT Master file Tax Code

CC AM 424 Examination Request Master File

1 Source Code	2 Organ Code	3 MFT	4 Status Code	5 Return Not Requested	6 Over rule DO	7 Preparer Code	8 Adjust Preparer	9 Push Code	10 Adjust Status	11 Form	
214	29311	310	6	X		116 8		C1217	EE	1070	
12A		12B Name Control or Check Digit		13 Tax Period		14 Adjust Code		15 Adjust Code			
12C Taxpayer's Name (Print)				912112		51313		C			
16 Taxpayer's Address				913112		51313		C			
				914112		51313		C			
				915112		51313		C			
17 Reason for Request: Related Return		Related Return Source Code		18 Preparer Date Organization		19 Adjusted By: Date					
New Filer Tax Preparer		CORR EXAM		G. L. ... 11/25/96 E. J. P.		J. J. ... 11/25/96					
20 Record on File		Tax Period		Source		DO		Org Appl Code		Status	
21 TC 424 Report Date		22 Followup Action		23 Operator Date							
Reason Code											

C.C. AM 424

Examination Request Master File

Statistical - Disposal

(Reference - IRM 48(13)1)

1. Source Code 214	2. Organ. Code 11113	3. MFT 30	4. Status Code 12	5. Return Not Requested <input checked="" type="checkbox"/>	6. Override D.O.	7. Project Code 1165	8. Aging Reason	9. Push Code/Spec. Msg. Code 0137	10. Alpha Statute ELE	11. Form 1040
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12A. <table border="1"> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td><td>32</td><td>33</td><td>34</td><td>35</td><td>36</td><td>37</td><td>38</td><td>39</td><td>40</td><td>41</td><td>42</td><td>43</td><td>44</td><td>45</td><td>46</td><td>47</td><td>48</td><td>49</td><td>50</td><td>51</td><td>52</td><td>53</td><td>54</td><td>55</td><td>56</td><td>57</td><td>58</td><td>59</td><td>60</td><td>61</td><td>62</td><td>63</td><td>64</td><td>65</td><td>66</td><td>67</td><td>68</td><td>69</td><td>70</td><td>71</td><td>72</td><td>73</td><td>74</td><td>75</td><td>76</td><td>77</td><td>78</td><td>79</td><td>80</td><td>81</td><td>82</td><td>83</td><td>84</td><td>85</td><td>86</td><td>87</td><td>88</td><td>89</td><td>90</td><td>91</td><td>92</td><td>93</td><td>94</td><td>95</td><td>96</td><td>97</td><td>98</td><td>99</td><td>00</td></tr> </table>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	12B. Name Control or Check Digit J	13. Tax Period 9/5/92	14. Activity Code 537	15. Amount Claimed (Dollars Only)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00					
12C. Taxpayer's Name (Print) J. J. J.		a.	b.	c.																																																																																																				
		b.	c.	d.																																																																																																				
		c.	d.	e.																																																																																																				
		d.	e.																																																																																																					
		e.																																																																																																						

16. Taxpayer's Address	17. Reason for Request/Related Return tax protestor Sub. 1st return	Related Return Source Code RK#06	18. Requester/Date/Organization Adkinson/11/1/96/evam	19. Approved By/Date T. J. Smith 11/1/96
------------------------	---------------------------------------------------------------------------	-------------------------------------	----------------------------------------------------------	---------------------------------------------

Record on File									
Tax Period	Source	D.O.	Org./Appl. Code	Status	Serial Number	Date	Transferor's D.O.	Comments	
Y Y M M						Y M D D Y Y			
Y Y M M						Y M D D Y Y			

21. TC 424 Reject Date: Reason/Code:	22. Followup Action:	23. Operator/Date Input 11-1-96
-----------------------------------------	----------------------	------------------------------------

Form 5345

When filling in this form by hand, press firmly and complete items 14 and 15 first. Then remove Part 2 and the carbon before completing the form.

1. TIN		Cross Reference TIN	
2. Name		3. Originating Office	
Street Address		TC <input type="checkbox"/> CC <input type="checkbox"/>	
City	State	Zip Code	Telephone Number ()
4. MFT	5. Period Ending	6. Assessment Date	7. Source TDA <input type="checkbox"/> Letter <input type="checkbox"/> Claim <input type="checkbox"/> Other <input type="checkbox"/>
8. DLN	9. Renumbered DLN		10. Personal Contact Yes <input type="checkbox"/> No <input type="checkbox"/> POA <input type="checkbox"/>

Department of the Treasury
Internal Revenue Service

request for adjustment

CAT. NO. 22515Q

11. Reason for Adjustment

12.

I hereby request that the items indicated above be included or changed on my Federal Tax Return or account as identified below.

Signature of Taxpayer		Date
13. Signature of Preparer	Telephone (work) (FAX)	Date
14. Approving Official Signature and Title		Date

Assessment, Item, or Credit Adjustment Processing Information

15. Sequence Number	16. Blocking Series	17. Del. Int. to Date	18. Source Code	19. Reason Code	20. Math Error Code	21. Hold Code	22. Other
23. Priority Code	24. Posting Delay Code	25. Source Doc. Attached	26. Other		27.	28.	
29. TC No.	Increase / Decrease		Ref. No.	Item Adjustment	Ref. No.	Credit Ac	

30. Remarks

31. Terminal Operator's Number	Employee I.D.	Date Input
--------------------------------	---------------	------------

Assessment Adjustment Case Record	Category ("x" proper box)	Name of tax examiner		Document locator number (DLN)	
	<input type="checkbox"/> X return <input type="checkbox"/> Taxpayer inquiry <input type="checkbox"/> Payment tracer <input type="checkbox"/> Duplicate file <input type="checkbox"/> Restricted interest <input type="checkbox"/> Internal request	Employee number	Interest comp. date (mmddyy)	IDRS input date (mmddyy)	

Section I. Tax Account Identification

Name control	Taxpayer identifying number (TIN)		MFT	Tax period	Blocking series	Sequence number	
1	2		3	4			
Codes	Notice suppressant	Reason	Source	Hold	Priority	Credit interest date (mmddyy)	Taxpayer correspondence date (mmddyy)
	5	6	7	8	9	10	11
	Math error	CAF indicator	DMF agency code	DMF subagency code	TIN type	Transaction code	Amount
	12	13	14	15	16	17	18

RP date	Section II.		Section III.		Section IV.		Section V.		DRI code
Transaction Code	Amount	Credit Reference	Amount	Cr./Item Reference	Amount	FUTA State Codes	Amount		
19	20	29	30	37	38	45	46		
21	22	31	32	39	40	47	48		
23	24	33	34	41	42	49	50		
25	26	35	36	43	44	51	52		
27	28					53	54		
						55	56		
						57	58		
Total ▶		Total ▶				59	60		

Explanation

PART A. DOCUMENT IDENTIFICATION

1. Social Security or E.I. Number	2. Form No. 1040	3. Tax Period 9612	3A. District Code	4. Document Locator Number and Processing Year 17 2147 6615 01010 317
5. Name and Address of Taxpayer (Please Print)				6. Renumbered Document Locator Number and Processing Year
9. Approval Signature Audrey Roach			10. Date 12/29/98	11. Encoder Number
				12. Fed. Tax Deposit No./TU

PART B. ORIGINATOR INFORMATION

13. Requested By:

A. District Office _____

B. Service Center or Other Location (If Proper Box)

<input type="checkbox"/> Andover	<input type="checkbox"/> Cincinnati	<input type="checkbox"/> Ogden
<input type="checkbox"/> Atlanta	<input type="checkbox"/> Fresno	<input type="checkbox"/> Philadelphia
<input type="checkbox"/> Austin	<input type="checkbox"/> Kansas City	
<input type="checkbox"/> Brookhaven	<input type="checkbox"/> Memphis	

Other (Specify) _____

SPECIAL SEARCH COMPLETED
JAN 04 1999
UNABLE TO SECURE

C. Division <i>Originator</i>	D. Branch <i>DMS</i>	E. Section <i>ES</i>
F. Group <i>Control</i>	G. Group	H. Storage Room <i>700</i>
I. Name of Originator <i>Audrey Roach</i>		J. Phone No. <i>684-1</i>

14. Information Requested (If Proper Box)

A. <input type="checkbox"/> Original Document	D. <input type="checkbox"/> Photocopy
B. <input type="checkbox"/> Microfilm Transcript	1. <input type="checkbox"/> Public Use
C. <input type="checkbox"/> Other (Specify in Item 19)	2. <input type="checkbox"/> Internal Use
	a. <input type="checkbox"/> Complete Document
	b. <input type="checkbox"/> Portion (Specify in Item 19)

15. Type of Request (If Proper Box)

A. <input type="checkbox"/> Initial
B. <input type="checkbox"/> Second
C. <input type="checkbox"/> Other (Specify) _____

PART C. RESEARCHER INFORMATION

16. Service Center Files Action

A. <input type="checkbox"/> Request Filled
B. <input type="checkbox"/> No Record of DLN
C. <input type="checkbox"/> Document Missing From Block
D. <input type="checkbox"/> Other (Explain) _____

E. Document	<input type="checkbox"/> Charged To:	<input type="checkbox"/> Recharge To:	Date
-------------	--------------------------------------	---------------------------------------	------

Office Location (Specify)

Division Branch Section

Unit Group Stop or Room No.

Cycle Number _____

Date _____

Researcher _____

Name Phone No.

Date of Search

17. Federal Records Reference

A. Accession No.

B. FRC Container

C. Shelf List No.

18. Federal Agency Location *WINSTON, KENTUCKY*

A. <input type="checkbox"/> Request Filled
B. <input type="checkbox"/> No Record of DLN
C. <input type="checkbox"/> Document Missing From Block
D. <input type="checkbox"/> Other (Specify in Item 19)

DEC 9 1998
Control Unit
Cincinnati Service Center

E. Request is Unserviceable

Reason:

<input type="checkbox"/> Julian Date or Year List not Transferred
<input type="checkbox"/> Document Class or Code not Transferred
<input type="checkbox"/> Block Missing
<input type="checkbox"/> Wrong DLN
<input type="checkbox"/> Other

F. Document previously charged out to:

Requester Identification (requester, case no., etc.)
316 95 358

Form or CP Number *12-219*

Chargeout Processing _____

FARC Researcher *(1)*

Date of _____

19. Remarks

Abusive trust potential - previously SFR

FOIA for form 2275

Examination Classification Checksheet

A. Taxpayer Name and SSN

(Affix Label with Check Digit)
"Examination Label"

- B. Type of Examination
- 1 Correspondence
 - 2 Interview
 - 3 Pre-Contact Analysis
 - 4 Field Examination

- C. Special Inventory
- 5 Extended Time Slot
 - 6 Trainee Level 1
 - 7 Trainee Level 2
 - 8 Trainee Level 3
 - 9 Local Option

D. Priority No. E. POC Override F. Bypass Related AIMS Year

G. ADP Hash Total

Issue Number	-X- If Quest.	Issue	Issue Number	-X- If Quest.			Issue
				C	E	F	
04		Filing Status (Married Filing Separately)					Schedule C, E or F Issues
05		Filing Status (Head of Household)	01	02	03		
		Exemptions	50			Gross Receipts	
06		Dependents Who Live with TP	51			Indirect Method	
07		Other Dependents	40			Rental Income (Schedule E)	
		Income	52			All Expenses	
08		Income W2/1099	53			Advertising	
09		Other Income	54			Bad Debts From Sales or Services	
10		IRMF - Rec Tab Criteria	55			Car & Truck Expenses	
		Adjustments to Income	41			Cleaning & Maintenance	
11		Individual Retirement Arrangements	56			Commissions, Cost of Labor, Labor Hired	
12		Alimony Payments	57			Cost of Goods Sold	
13		Self Employment Health Insurance	58			Cost of Livestock/Other Items Bought for Resale	
		Itemized Deductions - Schedule A	59			Depreciation/Section 179	
14		Medical and Dental Expenses	42			Employee Benefit Programs	
15		State and Local Income Taxes/State Tax Refund	43			Freight & Trucking	
16		Real Estate and Personal Property Taxes	44			Feed Purchased	
17		Interest Expense	45			Seed and Plants Purchased	
18		Contributions	61			Fertilizer, Lime, Chemicals	
19		Casualty and Theft Losses	62			Gas, Oil and Fuel	
20		Moving Expenses	63			Insurance	
21		Miscellaneous Deductions (Other than EBE)	64			Depletion	
		Employee Business Expenses	65			Interest Expense	
22		All Employee Business Expenses	66			Legal and Professional Expenses	
23		Automobile Expenses	67			Custom Hire/Machine Work	
24		Entertainment, Meals, Gifts and Other Expenses	68			Office Expenses	
25		Travel, Lodging and Other Expenses	69			Office in the Home	
30		Business use of Home	70			Pension/Profit Sharing Plans	
31		Education Expenses	71			Rent or Lease	
		Gains and Losses	72			Repairs and Maintenance	
26		Bad Debts	73			Wages	
27		Stock Sales	74			Self Employment Tax	
28		Schedule D, Sales of Real and Personal Property	75			Supplies	
29		Sale of Personal Residence	76			Taxes	
		Other Taxes	77			Travel, Meals, and Entertainment	
32		Alternative Minimum Tax	78			Utilities	
36		Self Employment Tax	79			Veterinary, Breeding, and Medicine	
37		Other Taxes	80			IRC 183 Business History	
		Tax Credits	81			Other Expenses	
30		Child and Dependent Care Credit	82			Passive Activity Loss	
91		Foreign Tax Credit	80			Form 4797, Sale of Business Property	
92		Earned Income Credit					

Remarks: Classifier Comments For Examiners Information Only

Non-filer
Assess All Applicable penalties

Other Issues (Insert issue exactly as shown on return)

33																			
34																			
35																			

I. Classifier (Initials, Number or Stamp) **CS 92** J. Date Classified **12-15-11** K. Reviewed With Without Scraper L. Date Reviewed

↑
FOIA for Form 6754

(b)(3) 6103
 (b)(7)(A) + (b)(7)(E) [REDACTED] R CHECKSHEET X 155

Taxpayer's Name: [REDACTED] SSN: [REDACTED]
 Taxpayer's Address: [REDACTED] D.O. [REDACTED] Date [REDACTED] Initial [REDACTED]
 Taxpayer's Updated Address: [REDACTED] D.O. [REDACTED] Date [REDACTED] Initial [REDACTED]

X-ref Spouse: [REDACTED] SSN: [REDACTED]
 Year: 8912, 9012, 9112, 9212
 Requested IRMF: [REDACTED] PENALTY CASE FILE
 Input TC 595-82: CN - IMS IN DC - [REDACTED] Letter Year Date Initial
 Control: [REDACTED] 664
 TC 424 (MF) - 1895
 TC 424 (NMF)

Source Code
 Project Code
 Org. Code
 Request Return Y/N
 Amt. Claimed \$ ONLY: Yes
 Photocopy SFR: Yes
 CIR Check: No
 Send to Corr: No
 Send to DO: Explain:
 Close Control
 Input TC 59X-
 UPC 191 URC
 UPC 191 Date Resolved
 COMPLIANCE CHECK
 Yr | FS |

IDRS INFORMATION REQUESTED
 Year: [REDACTED]
 Date: [REDACTED]
 Andis (MF): [REDACTED] (b)(3) 6103
 Andis (NMF): [REDACTED] (b)(7)(E)
 FFINQ: [REDACTED] (b)(7)(A)
 IMFOL
 INOLE
 EXMOD
 MFIRA
 CHECKED FOR Date Date Date Date
 CSC
 New [REDACTED] Yes No Initial
 Need Std [REDACTED] Letter Yes No
 Std [REDACTED] Letter Sent Date:
 FOIA Sent to Disclosure
 Date Date Date Date

ZILOG INFORMATION (b)(3) 6103 (b)(7)(E) (b)(7)(A)
 Year Form Scheme Date Comments:
 [REDACTED]

Correspondence
 Date Rec'd Date Assoc Initial Aims Pkg Ready to go to CORR Aims Pkg Ready to go to D.O.
 Year Date Initial Year Date Memo Corres Initial
 [REDACTED]

Comments:
 [REDACTED]

Compliance Check				Frivolous Position			
Tax Year	Timely Filed	Full Paid	SFR	1. Gold/Silver Standard	9. False Schedule C		
97+98			✓ processed 7-2-99	2. Non-Payment Protest	10. Fair Market Value		
				3. Family Estate Trust	11. Disclaimer		
				4. Excessive W-4 Claim	12. Non-resident Alien		
				5. Wages not Income	13. Form 2555		
				6. Eisner vs. Macomber			
				7. Factor Discounts			
				8. Altered Jurats			
Penalty							
Tax Year							
Position							
3176 (C)							
Assessed							
DLN							
Form 843							
Abated							
Disallowed							
Correspondence							
Tax Year							
Date							
Position							
3175 (C)							
FOI:			Date:				
Comments							

10-14-00

1994

Date assigned/Opened

Taxpayer (use the preprinted label if possible)

Name:

Address:

Business Name:

Address:

Phone: Residence

Business

Taxpayer's Representative

Name:

Address:

Phone:

Does this case meet PRP Criteria
Yes _____ No _____

Representative has: Power of Attorney
 TP's Authorization

Contacts and Activities

Date	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
10-9-98	BS	6		Send 255c / RAR Sp. RAR IS 5600 BS 10-9-98
10-14-98				PM QMSS / mandatum / 2 way
10-20-98	BS	2		Send 255c / RAR Sp. RAR IS 20 5600 BS 10/20/98
12-15-98	BS	3		RR 11/23 ISSUE STAT - IS NOTICE JAN 12 1999
2-9-99	PD			Copy all to Sep 68. Review
2-23-99	RN	21	.7	RR 2-23-99 called Disclosure + UTR coordinator - They will respond - Red. le for default - SUS

LOC=Location of activity: T=Taxpayer R=Representative O=Other
CONT=Contact Codes: 1. Telephone 2. TP's office 3. Rep's office 4. Correspondence 5. Other (expl)

004500

PAGE NO-0001

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 29-990-00;
JP983273

ACCOUNT NO 07-29-1998
NAME CONT- CYCLE-199830 TC 148 HOLD IS

FOR-2999000255 BY-2999000255 ON-07291998 TYP-S-30-199512
TIME-13:09 SRC-I JP983273 PROCESSED ON-210
REQUESTED TAX MODULE FOUND ON MF

1992 3

SOUTH

199332

LOC-8401

YEAR REMOVED-

ENT EXT CYC-199823

① PRIOR NAME CONTROL- ② SPOUSE SSN- FZ> -Z
MFR-02 VAL-1 IRA- ③ CAF-
FYM-12 SCS- CRINV-Z 130-
RPTR-2 PMF- SHELT- BNKRPT- BLLC-
ACCRETION- MIN SE-
JUSTIFICATION- IRS EMPL- FED EMPL-

1986 4

1987 1

1988 2

1990 3

CVPN

LSTRET-1996 ME- CND-E FLC-29 199812

* TAX PERIOD 30 199512 *

FS-3

TDA COPYS-4367

CRINV-Z ④

REASON CD- ⑤ MOD EXT CYC-1998
LIEN-4 29247-739-00280-7 CAF-1 FZT ⑥ -Z
TDI COPYS-
HISTORICAL DO-87 BWNC- BWI- ⑥

INT TOLERANCE- MATH INCREASE- 23,817.31

ACRUED INTEREST- 993.64 06221998
ACCRUED PENALTY- 875.49 06221998

CSED-07212007

RSED-10151999

ARDI-0

ASED-122220

⑦ ⑧ ⑨
SFR ⑩ 150 07/21/1997

0.00

⑩ ⑪ ⑫
5 199728

29210-172-26633-7 CD- SRC-
ERR- TAX PER T/P- 0.0

RCC-
RET RCVD DT-04141997

F/C- AGI- 46,443.0
FOREIGN- FARM- MF P-
XRF- AEIC- 0.0
PIA- EXEMPT-01 ENRGY- 0.0
LTEX- TAXABLE INC- 40,688.0
PENALTY SUPP-1000 SET- 7,064.0
MDP- TOTAL WAGES- 0.0
TOTAL INC TX- 0.0
EST TAX BASE- 0.0
PR YR BASE- 0.0
SHORT YR CD- ES FORGIVENESS %-

*****CONTINUED ON NEXT PAGE*****

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

①

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 84-990-23395
98-1408

ACCOUNT NO
NAME CONT-

07-28-1998
CYCLE-199829

TC 148 HOLD IS P

1ST SE-46,170.00	2ND SE-	0.00
ACCT TYPE-		
EFT-0		
F8615-0 UNAPPLD CR ELECT-		0.00
ES TAX PAYMENT-		0.00
HIGH INCOME-	DIR DEP REJ RSN CD-00	
PUTI-	0.00	SUTI-
		0.00
PMEI- 46,170.00		SMEI-
		0.00
PMTI-	0.00	SMTI-
		0.00

② 460 04/15/1996	-----	1996/18 29217-105-16948-6		
		EXT DATE-08151996		
③ 460 07/18/1996	-----	1996/32 29277-195-10720-6		
		EXT DATE-10151996		
④ 425 04/14/1997	-----	1997/17 84277-104-20000-7		
		SOURCE-24 ORG-1543 PROJ-037 RET REQ-		
		PTR DD-		
960 04/09/1997	-----	1997/25 29277-560-01113-7		
		MF CAF CODE-1		
570 07/21/1997	-----	1997/28 29210-172-26633-7		
		COLCLOS- CYCLES-		
420 07/12/1997	-----	1997/30 84277-193-00000-7		
		AIMS #2401898084		
560 07/23/1997	-----	1997/31 84277-204-77500-7		
		ASED-04151999 CYCLES-		
170 12/29/1997	863.07	1997/51 29247-739-00280-7		
		PRC- EST PNLTY WAIVED-		0.00
160 12/29/1997	3,979.50	1997/51 29247-739-00280-7		
		PRC-		
300 12/29/1997	15,918.00	1997/51 29247-739-00280-7		
		HC DC10 870D		
			ASED12222000	
			PC AD	
		CLAIM REJECT DT-		
421 12/29/1997	-----	1997/51 29247-739-00280-7 X		
		DISP CD- SOURCE-		
336 12/29/1997	3,056.74	1997/51 29247-739-00280-7		
		REFERENCE AMT-		

*****CONTINUED ON NEXT PAGE*****

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
 Recorders Initial _____

004502

PAGE NO-0003 TAX PERIOD 30 199512*CONTINUED

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 29-990-002
JP983273

ACCOUNT NO 07-29-1998
NAME CONT- CYCLE-199830 TC 148 HOLD IS

① 582 04/24/1998----- 1998/18 84277-518-07268-8
REGULAR LIEN

② 914 06/02/1998----- 1998/23 84277-554-30011-8

MF STAT-04 05131996 EXT DT-10151996
199618
MF STAT-21 12291997 23,817.31
199751
MF STAT-58 01191998 23,817.31
199801
MF STAT-22 03021998 23,817.31
199807
MF STAT-26 03301998 23,817.31
199811

84 | 2 | 77 | 554 | 300 | 11 | 8
-400
154

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/DA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

3(27)(68)1.4 (1-1-90)
Authority for Other Documents

LEM 3(27)(68)0 provides the authority for two other documents, the contents of which are extracted from this manual. They are (1) Document 6209—ADP and IDRS Information, and (2) Document 5576—Vest Pocket Edition ADP Transaction Codes. Only Document 6209 is for Official Use Only.

3(27)(68)2 (1-1-90)
Entity Codes

3(27)(68)2.1 (1-1-90)
General

The Entity Codes identify the taxpayer as to account number, filing requirements, location, etc., and are recorded in the Entity Section of a taxpayer's account on the Master File.

3(27)(68)2.2 (1-1-90)
Entity Account Number

(1) Each taxpayer account is maintained on the BMF, IMF, IRAF, or EPMF in Entity Account Number sequence. All returns and transactions processed must contain the taxpayer's correct account number. The Entity Account Number (EAN) or Taxpayer Identification Number (TIN) are also referred to as Employer Identification Number (EIN) or Social Security Number (SSN).

(2) BMF Entity Account Number—a nine-digit number assigned by the Internal Revenue Service Centers (SC) to taxpayers who must file business returns, officially entitled Employers' Identification Number. The printed format is: xx-xxxxxxx. Form 706 and 709 accounts will be in Social Security Number (SSN) sequence.

(3) IMF and IRAF Entity Account Number—The nine-digit Social Security Number assigned by the Social Security Administration to all individuals required to file individual returns. The printed format is: xxx-xx-xxxx.

(4) EPMF Accounts—Accounts are maintained in Employer Identification Number sequence.

(5) Temporary IMF or IRAF Social Security Number—a nine-digit temporary number assigned by the Service Center: (9xx)-(xx)-(xxxx).

(a) 900 through 999—indicates number is a temporary SSN.

(b) The code of the service center assigning the number.

(c) Numbers assigned consecutively beginning with 0001.

(d) The printed format of a Temporary IMF or IRAF Entity Account Number is Txxxxxxx.

(6) IMF and IRAF: For printing on other than taxpayer notices and transcripts, a tenth digit (either zero or one and referred to as the SSN Validity Digit) is shown to the right of the 9-digit SSN. An asterisk (*) appears next to the SSN on taxpayers notices and transcripts to indicate the SSN is invalid for the particular taxpayer.

SSN Validity Digit	Explanation
0	The SSN is valid for the taxpayer using it.
1	The SSN is not valid for the taxpayer using it.

Code	Explanation	Comment
P	A TC 148 with Entity Indicator 2 has been input to identify a tax protester account.	The "P" coded cases will have the fourth notice issued three weeks after the first notice is issued followed by a TDI four weeks later.
Q	A TC 148 with Entity Indicator 1 has been input to immediately issue the TDI (primarily when a TP is involved in bankruptcy proceedings).	The "Q" coded TDI results when an employee inputs this request. Subsequently, a fourth notice will be issued three weeks after the first notice followed by a TDI four weeks later.
R*	Indicates at least one TDI or TDA was closed during the past twelve months.	The "R" code indicates a TP has had prior delinquencies. Every effort should be made to bring these repeater TP's current and to encourage future compliance.
S	A TC 148 with Entity Indicator 8 has been input to identify an erroneous refund case.	The "S" coded cases will have the fourth notice issued three weeks after the first notice is issued followed by a TDI four weeks later.
T	A TC 148 with Entity Indicator 5 has been input to identify a narcotics case.	The "T" coded cases will have the fourth notice issued three weeks after the first notice is issued followed by a TDI four weeks later.
U	A TC 148 with Entity Indicator 6 has been input to identify a Special Enforcement Program case.	The "U" coded cases will have the fourth notice issued three weeks after the first notice is issued followed by a TDI four weeks later.
V	Indicates notice routine was interrupted or the TDI was accelerated by a reversal or expiration of a TC 474 (other than DC 77).	Prompt TP contact should be made on these cases because they usually indicate that TP has not supplied necessary information or the TDI was deliberately accelerated.
X	Total liability shown on the latest return posted for the same type of tax (MFT 01, 03, 09 or 11) was \$5,000 or more. The latest return will be not earlier than the immediate preceding period, however, it may be subsequent to the delinquent period.	The "X" coded cases indicates a high priority TDI and will be issued 5 weeks after the first notice. These TDIs should be completed in the shortest possible time period. Often these accounts pertain to trust fund liabilities.
Y	Indicates that a prior closing transaction has been reversed by a TC 592.	The "Y" coded cases indicates that a prior TC was erroneously input or that TDI issuance was accelerated through the input of a TC 590 followed by a TC 592.

*These Codes will appear as secondary codes only.

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

OFFICIAL USE ONLY

FREEDOM OF INFORMATION ACT REQUEST
REQUEST FOR NOTIFICATION AND ACCESS

Internal Revenue Service Center

« 1» « 2»
« 3»
« 4»

Dear Sir:

1. This is a request under the Freedom of Information Act, 5 U.S.C. Section 552 and 26 U.S.C. 6103. This is my firm promise to pay fees for locating and duplicating the documents and information requested below.

2. If some of this request is exempt, please furnish those portions reasonably segregable, and provide an indexing, itemization and detailed justification concerning information which you are not releasing.

3. This request pertains to the years: « 5».

4. Please send me a copy of the District Office delegation of authority for IRS employees to execute returns under Internal Revenue Code Section 6020(a) and 6020(b) and 7602.

Dated this _____, day of « 6», 1992.

Respectfully,

« 1»

I understand the penalties provided in 5 U.S.C. Section 552a(i)(3) for requesting or obtaining access to records under false pretenses.

This information is for personal use, as per 26 CFR part 601.702 (c)(ix).

I am the individual making the request, this request falls under 26 CFR part 601.702(f)(3)(i)(E), and this is my signature.

« 1»

6020.DOA

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

26 USC 6020(b)

		United States Statutes at Large									
	1954 Code	1939 Code	Date Enacted	PL.#	Cong.	Sess.	Vol.	Part	Page	Chap.	Act Section
1	6020(b)	3612(a), (c)		n/a	43	1	18	1/3	610	1&2	R.S. 3176
2			*1926, Feb. 26	No. 20	69	1	44	2/3	112	27	1103

This is from the level III CD

(20)214 Substitute for Return (SFR)

(1) A return, prepared for the taxpayer, pursuant to IRC section 6020(b) is a substitute for a return. The return is prepared by the Service when it is determined that a taxpayer is liable for filing the tax return but failed to do so after receiving notification from the Service.

(2) Within the Service:

(a) income, estate, gift and certain excise (IRC Chapters 41, 42, 43, and 44) tax deficiencies, are generally referred to as the SFR program. These returns are subject to statutory notice of deficiency procedures. See IRM (20)140 for a discussion of statutory notice of deficiency.

(b) employment and excise tax deficiencies (not IRC Chapters 41, 42, 43, and 44) are generally referred to as the 6020(b) program. These returns do not require a statutory notice of deficiency.

(3) If a taxpayer does not file a delinquent return when requested, SFR procedures will be followed.

(a) In considering the application of either the FTF or FTP penalty on these returns, the Service will:

1 recommend assertion or non-assertion of the FTF/FTP penalty;

2 explain the basis for the recommendation and comment on the taxpayer's statement in the report, report transmittal and/or workpapers, as appropriate;

3 compute any FTF/FTP penalty based on the total tax due for the period involved,

less any tax withheld at source on wages and any estimated tax payments (the total tax due, plus any penalty, will be considered as a deficiency); and

4 afford the taxpayer normal appeal rights.

(4) If a taxpayer fails to file a delinquent return when requested but executes an agreement to waive the restrictions on assessment of a deficiency (by signing a form such as Form 870, 4549E or 4549) the Service will determine if the FTF/FTP penalty should be asserted.

→ (5) For SFR returns (generally income tax returns), statutory notice of deficiency procedures apply:

(a) a dummy tax return (TC 150) is created to open the account on the master file. If the taxpayer does not respond to the statutory notice of deficiency, the appropriate tax is assessed.

1 The FTF penalty is computed from the return due date, or the extended due date, to the TC 290 or TC 300 assessment date (23(c)date), or 5 months, whichever is earlier.

2 Generally, the FTP penalty is computed from the original due date of the return to the date the tax is paid. See IRM (20)240 and (20)250 for discussions of various FTP penalty rates and identifying the FTP penalty start date in specific situations. See paragraphs (7) and (8) below.

(6) For 6020(b) program returns (generally employment or excise tax returns) statutory notice of deficiency procedures do not apply:

(a) Service Centers prepare the returns based on information obtained through various matching programs. The Service assesses the tax (TC 150) determined to be due and sends the taxpayer a completed employment or excise tax return.

1 The FTP penalty is computed from the due date of the return, to the 23(c) date of the assessment or for 5 months, whichever is earlier.

2 Generally, the FTP penalty is computed from the original due date of the return to the date the tax is paid. See IRM (20)240 and (20)250 for discussions of various FTP penalty rates and the FTP start date in specific situations.

(7) In both the SFR and 6020(b) program situations, the FTP penalty under IRC section 6651(a)(2) is computed from the original due date of the return until the date the tax is paid the maximum penalty of 25 percent is reached.

(8) Taxpayer Bill of Rights 2 (TBOR2), Pub. L. 104-167, 110 Stat. 1152, added IRC section 6651(g) to the code.

(a) This provision applies the failure to pay penalty to substitute returns in the same manner as the penalty applies to delinquent returns.

(b) This provision applies to a substitute return with a due date (without regard to extensions) after July 30, 1996.

(c) For any return with a due date after July 30, 1996, the failure to pay penalty will be computed from the original due date of the return.

(d) Prior to January 1, 1997, SFR/6020(b) program returns restricted the assessment of the FTP penalty until the tax was paid or the taxpayer provided a signed return. At that time the penalty had to be manually computed. After December 31, 1996, an enhancement to the Master File allows the FTP penalty the FTP penalty to be automatically calculated and assessed from the due date of the return until the date the tax is paid. To allow automatic generation of the FTP by master file, input an adjustment to tax (or 290/300 for a zero amount) with a:

1 Priority code 2 (ADJ54/TC290), or

2 Priority code 9 (ADJ47/TC300).

IRS Penalty Manual (20)100

PAPERWORK REDUCTION ACT NOTICE

This request is in accordance with the Paperwork Reduction Act of 1980. The information collection is used to determine the eligibility of the applicant to engage in certain operations, to determine location and extent of operations, and to determine whether the operations will be in conformity with Federal laws and regulations. The information requested is required to obtain or retain a benefit and is mandatory by statute (26 USC 5171).

Form Approved: OMB No. 1512-0195 (04/30/96)

DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS APPLICATION FOR OPERATING PERMIT UNDER 26 U.S.C. 5171(d) <i>(File in duplicate) See Paperwork Reduction Act Notice On Back</i>		1. DATE	2. PLANT NO.
3. NAME AND PRINCIPAL BUSINESS ADDRESS OF APPLICANT <i>(Number, Street, City or Town, County, State, ZIP Code)</i>		4. PLANT ADDRESS <i>(If different from principal business address)</i>	
5. APPLICATION IS HEREBY MADE FOR AN OPERATING PERMIT UNDER 26 U.S.C. 5171(d) TO ENGAGE IN THE FOLLOWING OPERATIONS:			
<input type="checkbox"/> DISTILLING FOR INDUSTRIAL USE <input type="checkbox"/> BOTTLING OR PACKAGING OF SPIRITS FOR INDUSTRIAL USE <input type="checkbox"/> MANUFACTURING ARTICLES <input type="checkbox"/> DENATURING SPIRITS <input type="checkbox"/> WAREHOUSING OF SPIRITS <i>(without bottling)</i> FOR NON-INDUSTRIAL USE <input type="checkbox"/> OTHER <i>(Specify)</i> <input type="checkbox"/> WAREHOUSING OF SPIRITS FOR INDUSTRIAL USE			
The application consists of this form and all papers and documents filed in connection therewith or incorporated therein by reference by the applicant.			
Under the penalties of perjury, I declare that this application for an operating permit, including the documents submitted in support thereof or incorporated therein by reference, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.			
6. SIGNATURE		7. TITLE OR STATUS <i>(State whether individual owner, member of firm, or if officer of corporation, give title)</i>	
INSTRUCTIONS			
1. Application for an operating permit under 26 U.S.C. 5171(d), shall be submitted on this form, in duplicate, to the Regional Director (Compliance, Bureau of Alcohol, Tobacco and Firearms, of the region in which the plant is located.			
2. Applicants are required to furnish, in the manner and detail prescribed in 27 CFR Part 19, the following information:			
a. Statement of the type of business organization and of the persons interested in the business, supported by the corporate documents, articles of partnership, and/or statement of interest in the business, as required by 27 CFR Part 19. (Where any statement or document required by this paragraph is on file with the Regional Director (Compliance), such statement or document may, by incorporation by reference thereto by the applicant, be made part of the application for an operating permit.)			
b. List of the trade names to be used in connection with the operations specified in the application, showing the operation or operations in which each trade name will be used. If State or local law requires registration of trade names, evidence of such registration must be furnished. If such registration is not required, a statement to that effect must be furnished.			
3. On specific request of the Regional Director (Compliance), furnish a			
statement whether any of the persons referred to in paragraph 2a, above has:			
a. Ever been convicted of a felony or misdemeanor under Federal or State law.			
b. Ever been arrested or charged with any violation of Federal or State law (convictions or arrests or charges for traffic violations need not be reported if such violations are not felonies).			
c. Ever applied for, held, or been connected with a permit, issued under Federal Law, to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interests in any business covered by such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated. (Where any information required by this subparagraph is on file with the Regional Director (Compliance), such information may, by incorporation by reference thereto by the applicant, be made a part of the application for an operating permit.)			
4. Applicants, when so instructed by the Regional Director (Compliance) are required to furnish as part of the application for an operating permit such additional information as may be necessary for the Regional Director (Compliance) to determine whether such permit should be issued.			
PRIVACY ACT INFORMATION			
The following information is provided pursuant to Section 3 of the Privacy Act of 1974 (5 U.S.C. §552a(e)(3)).			
1. AUTHORITY. Solicitation of this information is made pursuant to 26 U.S.C. §5171(d). Disclosure of this information by the applicant is mandatory if the applicant wishes to obtain an operating permit.			
2. PURPOSE. To identify the applicant, to identify the location where the plant will be located and to determine the eligibility of the applicant to obtain an operating permit.			
3. ROUTINE USES. The information will be used by ATF to make the determination set forth in paragraph 2. In addition, the information may be			
disclosed to other Federal, State, foreign and local law enforcement and regulatory agency personnel to verify information on the application where such disclosure is not prohibited by law. The information may further be disclosed to the Justice Department if it appears that the furnishing of false information may constitute a violation of Federal law. Finally, the information may be disclosed to members of the public in order to verify the information on the application where such disclosure is not prohibited by law.			
4. EFFECTS OF NOT SUPPLYING INFORMATION REQUESTED. Failure to supply complete information will delay processing and may result in the denial of the application.			

Send 20⁰⁰ to VIP for your complete copy.

35(262)1 (10-1-96)
General

35(262)1.1 (10-1-96)
Purpose and Scope

(1) The purpose of this section is to provide functional guidelines for the EPMF operations of the service centers' returns files.

(2) This section includes procedures for the following operations in the service centers:

(a) Purging, filing, shipping and refiling of EPMF documents.

(b) Servicing requests for EPMF documents and information from material normally maintained in the files.

(3) The procedures in IRM 35(61)0, Files Management and Services, must be used in conjunction with IRM 35(262)0.

(a) IRM 35(61)0 provides instructions and information for general files management as they relate to all return files.

(b) IRM 35(262)0 provides specific instructions and information as they relate to processing Series 5500 returns, schedules, and attachments.

35(262)1.2 (10-1-96)
Program Responsibility

(1) Effective July 1, 1991, the Employee Plans Processing Staff (EPPS), located at Memphis Service Center, assumed program responsibilities for the following Internal Revenue Manuals (IRMs) and relevant project documents:

(a) IRM 3(11)(22)0—SC Returns and Document Analysis, EPMF.

(b) IRM 3(12)(22)0—SC Error Resolution, EPMF.

(c) IRM 3(12)(166)0—SC Error Resolution, EPMF Unpostables.

(d) IRM 3(13)(36)0—SC Document Services, EPMF Account Numbers.

(2) Effective October 1, 1992, EPPS assumed program responsibilities for the following IRMs and relevant project documents:

(a) IRM 3(12)(260)0—EPMF, Form 5500—C/R on the Error Resolution System (ERS).

(b) IRM 3(15)(259)0—EPMF Adjustments.

(c) IRM 35(262)0—EPMF Files Management and Services.

(3) The mailing address is:

Internal Revenue Service
Employee Plans Processing Staff
P.O. Box 30309 AMF Stop 32EP
Memphis, Tn. 38130

35(262)1.3 (10-1-96)
Desk and Emergency Procedures

(1) Some regions and service centers have developed local use "desk" procedures. Such procedures are **only** to be used:

(a) to supplement existing EPPS procedures;

(b) for local routing purpose;

(c) as a file for communication referrals; or

 * Employee No. [REDACTED]
 * OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT
 * TRANSCRIPT DATE: 11/27/97
 *

(Department of the Treasury - Internal Revenue Service
 Document Locator Number [REDACTED] Taxpayer ID Number: [REDACTED]
 [REDACTED] Notice Date.....: 08/16/93
 [REDACTED] Type of Tax.....: INCOME
 [REDACTED] Master File Tax...: 20
 [REDACTED] Form Number.....: 1040
 [REDACTED] Period ending.....: 12/31/85

8512 1230 Abstract Number...: 004
 3801- 53 Civil Pen. Ref. No.
 POA on File?..... No

Second Notice.....09/27/93
 Third Notice.....11/01/93
 Fourth Notice.....12/12/93
 TDA.....06/16/97
 53 Status.....07/23/97
 Claim/Adj Pending.
 OIC Status.....
 Collection Expir..08/15/03
 Penalty/Interest..

You are hereby put on NOTICE th
 letter must be filed as a permaner
 of my IRS/TDA/AIMS/IMF 23C recd
 such record(s) have/has been dele
 substituted, this demand still applie
 23C Date...08/16/93
 MASTERFILE OVERFLOW
 17221-142-31520-3 Recorders Initial _____

Transfer Sch. Number..

TRANS DATE	DESCRIPTION	CC	DOCUMENT LOCATOR	POSTING DATE	TRANS AMOUNT
08/16/93	150 TAX		38651-255-20000-96	09/12/96	50,888.00
08/16/93	140 DELING. PEN		38651-255-20000-96	09/12/96	11,449.80
08/16/93	270 FTP PENALTY		38651-255-20000-96	09/12/96	12,722.00
08/16/93	340 RES INT ASMN		38651-255-20000-96	09/12/96	64,325.00
10/18/93	360 FEES & COSTS		38651-255-20000-96	09/12/96	16.00
10/25/93	360 FEES & COSTS		38651-255-20000-96	09/12/96	236.00
07/25/94	670 PAYMENT		38651-255-20000-96	09/12/96	-130.00
07/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-80.00
07/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
08/05/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/08/94	670 PAYMENT		38651-255-20000-96	09/12/96	-140.00
08/12/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/15/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
08/16/94	670 PAYMENT		38651-255-20000-96	09/12/96	-180.00
08/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/31/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
09/06/94	670 PAYMENT		38651-255-20000-96	09/12/96	-50.00
09/06/94	670 PAYMENT		38651-255-20000-96	09/12/96	-70.00
09/13/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
09/13/94	670 PAYMENT		38651-255-20000-96	09/12/96	-160.00
09/16/94	670 PAYMENT		38651-255-20000-96	09/12/96	-50.00
09/20/94	670 PAYMENT		38651-255-20000-96	09/12/96	-2,500.00
09/20/94	670 PAYMENT		38651-255-20000-96	09/12/96	-185.11

(*****CONTINUED ON NEXT PAGE*****

OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT

TRANSCRIPT DATE: 11/27/97

/20/12/31/85

Page: 6

TRANS DATE	DESCRIPTION	CC	DOCUMENT LOCATOR	POSTING DATE	TRANS AMOUNT
05/29/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
05/29/96	670 PAYMENT		38651-255-20000-96	09/12/96	-30.00
05/29/96	670 PAYMENT		38651-255-20000-96	09/12/96	-30.00
06/04/96	670 PAYMENT		38651-255-20000-96	09/12/96	-30.00
06/05/96	670 PAYMENT		38651-255-20000-96	09/12/96	-30.00
06/05/96	670 PAYMENT		38651-255-20000-96	09/12/96	-30.00
06/07/96	670 PAYMENT		38651-255-20000-96	09/12/96	-310.25
06/07/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
06/11/96	670 PAYMENT		38651-255-20000-96	09/12/96	-48.84
06/11/96	670 PAYMENT		38651-255-20000-96	09/12/96	-180.00
06/19/96	670 PAYMENT		38651-255-20000-96	09/12/96	-50.00
06/19/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
06/24/96	670 PAYMENT		38651-255-20000-96	09/12/96	-115.00
06/26/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
06/28/96	670 PAYMENT		38651-255-20000-96	09/12/96	-260.00
06/28/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
07/05/96	670 PAYMENT		38651-255-20000-96	09/12/96	-124.30
07/05/96	670 PAYMENT		38651-255-20000-96	09/12/96	-235.00
07/09/96	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/02/96	670 PAYMENT		38627-220-20100-96	09/17/96	-150.00
08/09/96	670 PAYMENT		38627-227-20100-96	09/27/96	-100.00
12/96	670 PAYMENT		38627-228-20100-96	09/27/96	-100.00
08/09/96	670 PAYMENT		38627-227-20300-96	10/01/96	-100.00
08/09/96	670 PAYMENT		38627-227-20200-96	10/01/96	-250.00
08/16/96	670 PAYMENT		38627-225-20300-96	11/28/96	-65.00
08/06/96	670 PAYMENT		38627-225-20301-96	12/03/96	-124.30
08/06/96	670 PAYMENT		38627-225-20300-96	12/03/96	-115.00
08/07/96	670 PAYMENT		38627-225-20303-96	12/03/96	-200.00
08/07/96	670 PAYMENT		38627-225-20302-96	12/03/96	-135.00
08/14/96	670 PAYMENT		38627-234-20000-96	08/14/97	-30.00
07/23/97	530 ACCT 58 STAT 30		38677-604-00001-97	07/28/97	0.00

08/14/97 Account Balance: 99,033.28

10/31/97 Accrued Penalty : 308.50

10/31/97 Accrued Interest: 26,272.50

126,138.28

46,530.91

172,669.19

Date of Entry	HISTORY
05/08/97	sent transcript of account to bob gritter do 38 616-831-1237
06/03/97	link huey, NO, input status change to 1300 22.prep manual 290 status change recap

*****CONTINUED ON NEXT PAGE*****

(f) Both spouses agree to split all of the gifts that either one made during the calendar year.

(3) Form 709-A is a calendar year return to be filed on or after January 1, but not later than April 15, of the calendar year following the year the non-taxable split gifts were made. This form may not be filed later than April 15, (or the extension due date). The statute of limitations is three years from the due date of the return including extensions.

(4) Input TC 290 .00, in the appropriate blocking series, to release the "A" freeze on amended or corrected returns.

(5) True duplicate:

(a) Secure the original return, if necessary, and examine both returns to verify they are identical;

(b) If the return is an exact duplicate, and the original return was secured, staple the duplicate behind the original.

(c) Input TC 290.00 in the appropriate blocking series to release the freeze. Refer to IRM 3(15)(148)-CP293.

(6) If a return posted, the incorrect year or Social Security Number (SSN) take the following action:

(a) Obtain MRS (Microfilm Replacement System) using CC MFTRA, for the year and SSN involved, to determine the correct information;

(b) Reinput the return to the correct year or SSN, under the original DLN, using Form 3893, and

(c) Release the "A" freeze with a TC 290 .00 using the appropriate blocking series.

3(15)(148)(12) Non-Master File (NMF) Adjustments

3(15)(148)(12).1 General NMF Information

(1) This section provides instructions for NMF Adjustments requiring a correction, abatement or assessment to:

(a) tax, penalty or interest on a taxpayer's account;

(b) withholding or other refundable credits; or

(c) miscellaneous taxes, not requiring the filing of a regular return such as sugar fed to livestock, communication and transportation tax exempt organizations, etc.

(2) Adjustment Branch processes the NMF Cases listed below:

(a) Form 843 claims.

(b) Form 3870, Request for Adjustment.

(c) Form 3465, Adjustment Request.

(d) Combination MF and pre-MF Adjustments.

(e) Various requests including letters, forms, etc.

(3) NMF Returns are subject to the same penalty and interest provisions as Master File (MF) returns unless otherwise stated in IRM's 30(85)0 and 31(59)0.

(4) Many NMF accounts are now included on the Integrated Data Retrieval System (IDRS). See IRM 3(25)7B for detailed procedures. See IRM 3(17)(46)0, for additional NMF information.

(5) Chapter 65 of the Internal Revenue Code (IRC) delegates the authority to adjust the NMF, making us responsible for correct preparation of all adjustments to this file. Tax Examining Assistants (TEAs), Schedule Clerks, and Supervisors must share this responsibility as follows:

3(17)(46)0 Automated Non-Master File Accounting

3(17)(46)1 ⁽¹⁻¹⁻⁹⁶⁾
Purpose

(1) This manual provides instructions for the accounting and data control of Non-Master File (NMF) accounts using the Automated Non-Master File application of the Non-Master File System. The Non-Master File System automates six accounting functions: NMF; the FTD Daily Wire (backup); the 23 C Certification (backup); Quick, Prompt and Jeopardy Assessments; Index Card Generation; and The Treas 95 Report. Only procedures for the Automated NMF System (ANMF) and Index Card Generation system are included in this IRM. Procedures for the other functions will be in separate IRMs.

(2) Non-Master File accounts are a collection of revenue accounting transactions whose sole purpose is to provide a means for the assessment of taxes and collection of revenue.

(a) Non-Master File is a whole system of accounting which provides for not only outstanding liabilities but for all types of return and tax adjustment processing.

(b) The account reflects an assessment of tax from a return or other source document and of itself may not represent the entire liability for a tax period. An additional tax assessment is established on the NMF data base as a separate account, per the NMF Theory.

(c) Under the manual system, the only control compilation of all actions relating to a taxpayer were Index Cards maintained in alphabetical order by Returns Files. An Index Card was prepared for each return, abatement or assessment. Under the Automated NMF, compilation of all NMF actions relating to an established account are accessed through the Research screen using the taxpayer's primary key: TIN, MFT and tax period. All NMF activity which is not processed through the Automated NMF system will continue to have Index Cards prepared through the "stand alone" Index Card Generation system, another application of the Non-Master File System.

(3) Non-Master File processing provides an essential outlet for the Master File ADP system.

(a) It permits the rapid implementation of new tax laws that may require extensive modifications to the ADP system for which time or resources may not be available in order to timely make the changes.

(b) It permits the processing for those accounts which have an excessive number of transactions for the Master File to systemically handle.

(c) It permits the processing for those accounts which have an account balance too large for the Master File to systemically handle.

(d) It provides for immediate, legal assessments (within 24-36 hours), for those instances when the Master File would be too slow to post the assessment (4-6 weeks).

3(17)(46)1.1 ⁽¹⁻¹⁻⁹⁶⁾
Scope

(1) Non-Master File is a process of accounting for assessments, liabilities, payments, debits and credits. The following is the Non-Master File Theory as it applies to the "Non-Master File" itself, not as the title of the Non-Master File function in the Service Center Accounting Branch.

(2) The Non-Master File processing is comprised of the following Service Center Accounting Branch functions:

- (a) Non-Master File
- (b) RACS, Revenue and Accounting Control System
- (c) Transfer
- (d) Non-Master File Service Center Control File (NMF SCCF)
- (e) NMF Scheduling

3(17)(46)1.2 (1-1-96) Non-Master File Theory

(1) Return Assessments (IRC 6201)

(a) Non-Master File Assessments are made as remainder assessments. The term "Remainder Assessments" means that any credits that were previously assessed such as Withholding (previously assessed on the Form 941 return), Estimated Tax Credits (previously assessed on the Declaration of Estimated Tax, taxes), Gasoline Tax Credits (previously assessed on the Form 720 return) etc., are used to reduce the liability prior to assessment. The remainder amount is then the assessment amount.

(b) For returns on which the credits described above exceed the liability on the return, a tax refund is scheduled from the return and an Index Card is prepared. No account will be established on the data base. This type of return is normally called "Refund Return".

(c) For returns on which the credits described above equal the tax liability or the return has no credit or liability, an Index Card is prepared for each return. No account will be established on the data base. These types of returns are normally called "Even Returns".

(d) For returns on which the credits described above are less than the tax liability but the difference is paid with the return, an NMF account is established. These types of returns are called "Full Paid" returns. "Full Paid" returns are post journalized for the amount of the payment. The account will be established on the Automated NMF system and will be posted with a debit for the payment amount and the payment received will be posted as a credit.

(e) Returns on which the credits described above are less than the tax liability and no payment or a partial payment is included with the return are defined as "Part Paid" or "Unpaid" returns. These returns will be assessed for the tax liability less the credits previously assessed (remainder assessment) as described above. An NMF account is established and notices will be generated for each of these returns. A debit transaction for the amount of the remainder assessment will be posted to the taxpayer's account. Any partial payment received with the return will be posted as a credit. Notices to the taxpayer will be issued on the Friday prior to the Monday assessment date. For Prompt, Quick or Jeopardy Assessments, the taxpayer notice is normally issued immediately upon assessment.

(f) All of the "refund returns" and "even returns" are routed to Accounting for inclusion on the weekly Summary Record of Assessments. The documents may be listed on Form 8166, Input Reconciliation Sheet by block Document Locator Number (DLN).

(2) Supplemental Assessments (IRC 6204)

(a) Assessments of tax liability plus penalties and interest are determined by adjustment tax examiners, the Appeals Function or by the Examination function. Returns on which additional assessments have been determined will bear a Form 2467, Assessment Label, Form 2859, Request for Quick or Prompt Assessment, or Forms 5734, 8278, 5403, 5433, etc. The Label or other source document will indicate the tax liability to be assessed plus any interest or penalties to be assessed and will show the assessment DLN. The assessment label is being phased out and will become obsolete in 1995. The other source documents stated above are the preferred source documents for Supplemental Assessments.

(b) Additional assessments are made and journalized for the full amount shown on the label or assessment document. These assessments will not be posted to an existing NMF account. A new NMF account will be established using a new DLN.

(c) Accrual assessments of penalty, interest or collection costs will be posted to the existing NMF account as subsequent transactions.

(3) Overassessments

(a) Overassessments may be determined by Adjustment tax examiners, the Examination function, or Appeals. Overassessments are declared when it is determined that the total correct liability is something less than the previously determined total liability. This is true even if the previously determined liability has been satisfied by withholding tax payments, excise tax payments, actual payments with the return or subsequent payments made as the result of billing. It is also true if the previously determined liability has not been satisfied in whole or in part.

(b) When an overassessment is determined, an overassessment label or stamp is affixed to the original return or assessment document. If the original assessment document cannot be obtained, a document will be prepared with proof that the original document was ordered but could not be obtained. See IRM 3(17)(46)1.3(6).

(c) Priority for application of the credit created by the overassessment will be as follows:

1 Abatement of the outstanding amounts created from the assessment document.

2 Credit to any other outstanding liabilities for the same taxpayer for any taxable periods. The credit would be applied by the collection statute expiration date. The oldest 23C date will be paid first.

3 Refund of any excess amount that is not needed for one or two above.

(4) Overpayments

(a) Overpayments occur in Non-Master File when the total payments received from the taxpayer exceed the assessed amounts on the account including any accruals to be assessed. Overpayments will result in an account with an outstanding credit balance.

(b) When a credit balance is on the account, research is done to determine if the credit is needed on some other NMF account or MF account for the same taxpayer.

(c) If the credit is needed, a Debit & Credit Adjustment Voucher is prepared to transfer the credit to the account with an outstanding liability.

(d) Priority for application of the credit created by the overpayment will be as follows:

Internal Revenue Service

Internal Revenue
Service Center Cincinnati, OH

Department of the Treasury

P.O. Box 145500, Stop 68
Cincinnati, OH 45250-5500

Person to Contact:
Ms. Alering/17-14638
Telephone Number:
(606) 292-5662 (not toll-free)
Hours:
7:30 a.m. - 4:00 p.m.
Refer Reply to:
0-204
Date: **DEC 22 1999**

Dear Mr.

This is in response to your Freedom of Information Act request dated December 18, 1999, certified mail number Z 148 847 243, which we received in our office on December 22, 1999.

You requested a copy of your OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT for tax years 1992-1997. An OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT is only available if there is a non-master file assessment made on the non-master file account. The Accounting Branch has advised us that we have no records responsive to this request.

Notice 393 is enclosed to explain your appeal rights.

Sincerely yours,

for Darlene Alering
Michael Ormond
Disclosure Officer

Enclosure

CERTIFIED MAIL REQUEST #P 563 689 392

June , 1999

Internal Revenue Service

ATTN: Chung

YOU ARE HEREBY NOTICED THAT
this letter must be filed as a
permanent part of my IRS/TDA
AIMS/IMF 23C record. If such
record(s) have/has been deleted
or substituted, this demand
still applies.
Initial _____

Mr. Chung:

This letter serves as constructive legal notice that your personally signed "FINAL NOTICE, NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING" Letter Number 1058 (DO) dated March 18, 1999 is hereby refuted and rebutted. I do not agree with the collection action of levy and notice of intent to levy.

1. Your intent to levy under Internal Revenue Code (IRC) Section 6331 is a misapplication of the IRS code. Section 6331 applies to Alcohol, Tobacco, and Firearms Title 27 CFR as referenced in the Code of Federal Regulations Part 70. (See also Department of Treasury Order No.120-01, **Exhibit A enclosed.**) I am not involved in any ATF activities!

2. Mr.Chung, which Internal Revenue Service do you represent? Which Department of the Treasury? Are you a Revenue Agent of the Treasury of Puerto Rico? (**Exhibit B enclosed**) You have violated Internal Revenue Service collection procedures by not following IRS Manual instructions which require that you provide me with a valid summary record of assessment pursuant to 26 CFR 301.6203-1. You have not provided it and without a valid assessment there is no liability. Without a liability there can be no levy, no notice of intent to levy nor any other collection actions.

3. I have requested from you but have not received the IRS Form 23C "Assessment Certificate" signed and dated by a qualified assessment officer. Your Internal Revenue Manual 3(17)(63)(14).1 states, "All tax assessments must be recorded on Form 23C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity." Furthermore, Internal Revenue Manual 3(17)(46)2.3 states, "All assessments must be certified by the signature of an authorized official on Form 23-C, Assessment Certificate.

A signed Form 23C authorizes issuance of notices and other collection action.” (Exhibit C enclosed)

4. I am not liable for and do not owe any of the Form 1040 amounts listed in your Letter Number 1058 (DO). There is no 23 C Assessment on record. (Exhibit C, page 3)

5. The enclosed certificate verifies that there are no U.S. Tax Lien records under the name _____ with identification no. _____. Please place the certificate in your file with that name and number. (Exhibit D enclosed)

6. Please correct your records to reflect these changes. “ I request a Collection Due Process Hearing with Appeals.” Your prompt response to this correspondence within 21 days of receipt may prevent further actions from being taken.

Sincerely,

YOU ARE HEREBY NOTICED THAT
this letter must be filed as a
permanent part of my IRS/DA
AIMS/IMF 23C record. If such
record(s) have/has been deleted
or substituted, this demand
still applies.
Initial _____

Enclosures:

1. Exhibit 1 - IRS 1058 (DO) Letter dated March 18, 1999
2. Exhibit A - Dept Treasury Order #120-01 & Title 27 CFR (2pgs.)
3. Exhibit B - Title 27 CFR, Fact Con & 31 USCS 1321 (4 pgs)
4. Exhibit C - FOIA req, Internal Revenue Manual Form 23C (4 pgs)
5. Exhibit D - No Lien Certificate
6. Exhibit E - Title 5 USC 552(a)(2)
7. Exhibit F - IRS/ADP 6209 Manual & FOIA req (5 pgs)
8. Exhibit G - Correspondence List

THERE IS NO ACCEPTABLE SUBSTITUTE FOR HONESTY IN GOVERNMENT

WHICH DEPARTMENT OF THE TREASURY

Internal Revenue Service

WHICH IRS?

DEPARTMENT OF THE TREASURY

Letter Number: THIS LETTER IS FOR 1058 (DO) ATF RETURNS ONLY

Letter Date: March 1999

Identifying Number: NOT VALID I HAVE NO ATF REVENUE INCOME

Person to Contact: Chung
Contact Telephone Number: Ext.

THIS IS NOT MY CORRECT NAME OR ADDRESS.

CERTIFIED MAIL - RETURN RECEIPT

FINAL NOTICE
NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING
PLEASE RESPOND IMMEDIATELY

PLEASE SEND ME THE FORM 23C SIGNED AND DATED BY A QUALIFIED ASSESSMENT OFFICER. I HAVE NEVER RECEIVED A 23C NOTICE

Your federal tax is still not paid. We previously asked you to pay this, but we still haven't received your payment. This letter is your notice of our intent to levy under Internal Revenue Code (IRC) Section 6331 and your right to receive Appeals consideration under IRC Section 6330.

THESE ARE ATF SECTIONS ONLY. SEE CFR PART 10.

We may file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is a public notice to your creditors that the government has a right to your current assets, including any assets you acquire after we file the lien.

SEE ABOVE STATEMENT

REFUSAL FOR FRAUD

If you do not pay the amount you owe, or request Appeals consideration within 90 days of the date of this letter, we may take your property, or rights to property, such as automobiles, business assets, bank accounts, wages, commissions and other income. We've enclosed Publication 594 with more information, Publication 1660 explaining your right to appeal, and Form 12153 to request a Collection Due Process Hearing with Appeals.

YES, WE REQUEST A HEARING.

To prevent collection action, please send your full payment today. Make your check or money order payable to U. S. Treasury. Write your social security number or employer identification number on your payment. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is:

WHICH DEPARTMENT OF TREASURY?

Form Number	Tax Period	Amount Unpaid from Prior Notices	Additional Penalty & Interest	Amount You Owe
1040	12/31/1987	3,732.44	5,422.60	9,155.04
1040	12/31/1988	200,965.78	82,442.37	283,408.15
1040	12/31/1989	154,310.26	65,163.22	219,473.48
1040	12/31/1990	149,057.56	64,891.55	213,949.11
1040	12/31/1991	169,565.48	76,119.97	245,785.45
1040	12/31/1992	139,075.47	64,049.46	203,124.93
1040	12/31/1993	176,323.88	83,385.58	260,209.46
CIV PEN	12/31/1988	540.07	12.34	552.41

I DO NOT OWE ANY OF THIS, THERE IS NO 23C ASSESSMENT ON RECORD.

AM NOT A U.S. INDIVIDUAL
AT IS THE CORRECT
IB NUMBER FOR A
40 FORM AND WHAT IS THE CORRECT EXPIRATION DATE.

I DO NOT OWE THIS AS THERE IS NO 23C ASSESSMENT ON RECORD

THERE IS NO PENALTY OR INTEREST FOR A IMF RETURN

(continued)

Letter 1058 (DO) (Rev. 1-1999)

FOR ATF ONLY. I AM NOT INVOLVED IN ANY ATF ACTIVITIES.

YOU ARE HEREBY NOTICED THAT this letter must be filed as a permanent part of my IRS/IDA AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies. M.K.O. Initial

FOR ATF ONLY.

Letter 1058 (DO)

March 1999

Page 2


I AM NOT INVOLVED IN ANY ATF ACTIVITIES.

If you have recently paid this or if you can't pay it, call us immediately at the telephone number shown at the top of this letter and let us know.

The unpaid amount from prior notices may include tax, penalties and interest you still owe. It also includes any credits and payments we've received since we sent our last notice to you. THIS DOES NOT PERTAIN TO ME.

IS THIS THE ATF DISTRICT DIRECTOR?

Sincerely yours,
Paul Beene
District Director

by

Chung
Revenue Officer

I AM NOT INVOLVED IN ANY ATF REVENUE ACTIVITY.

1. NOW, IF YOU HAVE ANY PROOF THAT I AM INVOLVED IN ANY ATF ACTIVITY PLEASE SEND THAT INFORMATION TO ME IMMEDIATELY.
2. IS THIS 1058 LETTER BASED UPON THE income tax laws OF THE UNITED STATES OR THE Internal Revenue laws of the UNITED STATES
3. ARE YOU WITH THE OFFICIAL INTERNAL REVENUE SERVICE OR JUST THE regular Internal Revenue Service.

REFUSAL FOR FRAUD
F.R.C.P. 9(b)

Enclosures:
Copy of this Letter
Publication 594
Publication 1660
Form 12153
Envelope

Letter 1058 (DO) (Rev. 1-1999)

YOU ARE HEREBY NOTICED THAT this letter must be filed as a permanent part of my IRS/DA AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies. Initial PKJ

FOR ATF ONLY. I AM NOT INVOLVED IN ANY ATF ACTIVITIES.

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

EXHIBIT

Exhibit _____

**REFUSED FOR FRAUD
F.R.C.P. 9(b)**

Date: _____

CERTIFIED MAIL REQUEST #P 563

June 30, 1999

Chief, Special Procedures Function
Internal Revenue Service

Seattle, WA

Dear Chief:

YOU ARE HEREBY NOTICED THAT
this letter must be filed as a
permanent part of my IRS/IDA
AIMS/MP 23C record. If such
record(s) have/has been deleted
or substituted, this demand
still applies. Initial HSI

This letter serves as constructive legal notice that the enclosed Notice of Federal Tax Lien dated 8 July 1996 was filed erroneously and is unenforceable. The notice of lien and its contents is hereby refuted and rebutted. (Exhibit A enclosed)

In accordance with the procedures stated in IRC 6325(a) and Internal Revenue Manual 5300 Sections 535(12).31-33, I am submitting this request for release of Notice of Federal Tax Lien. Please issue a certificate of release to :
at current address: (Exhibit B enclosed)

1. Internal Revenue Code sections 6321, 6322, and 6323 that is cited as the basis for the Notice of Federal Tax Lien is a misapplication of the IRS code. These sections apply to the Bureau of Alcohol, Tobacco, and Firearms; Title 27 CFR as referenced in the Code of Federal Regulations Part 70. (See also Department of Treasury Order No.120-01, Exhibit C enclosed.) I am not involved in any ATF activities!
2. There has been a violation of Internal Revenue Service collection procedures by not following IRS Code and Manual instructions which require the IRS to provide me with a valid summary record of assessment pursuant to 26 CFR 301.6203-1. You have not provided it and without a valid assessment there is no liability. Without a liability there can be no lien, no notice of lien, nor any other collection actions. Your Internal Revenue Manual 5300 at section 5351 states: "An assessment must have been made.", and in section 5312 "Method and Time of Assessment" "The assessment is made by an assessment officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs a Form 23C Assessment Certificate, and this record . . ." (Exhibit D enclosed)
3. I have repeatedly requested from IRS personnel but have not received the IRS Form 23C "Assessment Certificate" signed and dated by a qualified

NOTICE: I HEREBY CERTIFY THAT
this document is a permanent
permanent part of my IRCTDA
AIMS/IMF 23C record. If such
record(s) have/have been deleted
or substituted, this demand
still applies.
Initials *Lat*

assessment officer. Another Internal Revenue Manual 3(17)(63)(14) states, "All tax assessments must be recorded on Form 23C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity." Furthermore, Internal Revenue Manual 3(17)(46)2.3 states, "All assessments must be certified by the signature of an authorized official on Form 23-C, Assessment Certificate. A signed Form 23C authorizes issuance of notices and other collection action." (Exhibit E enclosed)

4. Furthermore, the Notice of Federal Tax Lien was not filed in accordance with the existing law in the Uniform Federal Lien Registration Act. Certification of the lien by the Secretary of Treasury or his delegate is paramount to the filing of the notice. In accordance with UFLRA, section 3, the notice cannot be filed for record until the county recorder or Clerk of the Circuit Court, verifies that the lien has been certified then the county recorder must list the name of the party that has certified the lien and his or her delegated authority to do so. The UFLRA specifically states:

"Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury or the delegate of the secretary, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed"

See also UCC 9-403-(4) which has been incorporated into the UFLRA at section 4. It is quite clear, by law, that the notice of federal tax lien must be certified and then that certification entitles the notice to be filed. It appears that the notice was filed without certification which violates the Uniform Federal Lien Registration Act.

6. The enclosed GOVERNMENT OF THE DISTRICT OF COLUMBIA certificate verifies that there are no U.S. Tax Lien records under the name Letitia Y. Turner with identification no. 226-42-2977. Please place the certificate in your file with that name and number. (Exhibit F enclosed)

7. I am not liable for and do not owe any of the 1040 amounts listed in the enclosed Notice of Federal Tax Lien. (Exhibit G enclosed) There is no 23C Assessment on record. (Exhibit E, page 3)

8. All IRS administrative due process procedures are to be followed specifically and with particularity. Federal Rules of Civil Procedure Rule 9(b)&(c) Please correct your records to reflect these changes. The documented Internal Revenue procedural information contained in this correspondence are grounds for request for issuance of a release of notice of federal tax

lien. The notice of federal tax lien is unenforceable as IRS procedures were not followed. Your prompt response to this correspondence within 30 days of receipt may prevent further actions from being taken.

Sincerely,

YOU ARE HEREBY NOTICED THAT
this letter must be filed as a
permanent part of my IRS/IDA
AIMS/IMF 23C record. If such
record(s) have/has been deleted
or substituted, this demand
still applies.
Initial Sh-L

Enclosures:

1. Exhibit A - Notice of Federal Tax Lien dated 8 July 1996
2. Exhibit B - IR Manual 5300 Section 535(12).1-2,31-33,(13).1-2 (4pgs)
3. Exhibit C - Dept Treasury Order #120-01 & Title 27 CFR (11pgs)
4. Exhibit D - IR Manual 5300 Section 5312 & 5351
5. Exhibit E - Internal Revenue Manual Form 23C (4 pgs)
6. Exhibit F - Certificate (No U.S. Tax Liens)
7. Exhibit G - IRS/ADP 6209 Manual & FOIA req (7 pgs)
8. Exhibit H - Correspondence List

I AM NOT INVOLVED IN ANY ATF ACTIVITIES WHICH DEPT OF TREASURY WHICH IRS? WHERE IS THE

FOR ATF ONLY Form 668 (Y) (c) (Rev. October 1993)

Department of the Treasury Internal Revenue Service

WITH PROOF OF CERTIFICATION CORRESPONDING OFFICER WITH FULL DISCLOSURE

WHAT IS THIS → **Notice of Federal Tax Lien**

District THESE ARE ATF SECTION PACIFIC NORTHWEST Serial Number ONLY, SEE CFR PART 70

AS REQUIRED BY UNIFORM COMMERCIAL CODE *This Notice of Federal Tax Lien has been filed as a matter of public record. NO PENALTY OR INTEREST

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code we are giving a notice that taxes (including interest and penalties) have been assessed against the following named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

IRS will continue to charge penalty and interest until you satisfy the amount you owe.

Name of Taxpayer AKA THIS IS NOT MY CORRECT NAME OR ADDRESS.

ON IMF RETURNS. *Contact the District Office, Collection Division for information on the amount you must pay before we can release this lien.

Residence TERRITORIAL LOCATION ONLY

*See the back of this page for an explanation of your Administrative Appeal rights. I AM APPEALING.

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

PLEASE ISSUE A CERTIFICATE OF RELEASE. THIS NOTICE IS UNENFORCEABLE BY LAW

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/88	226-42-2977	10/01/90	10/31/00	PLEASE SEND ME
1040	12/31/88	226-42-2977	02/26/96	03/27/06	179703.61
1040	12/31/89	226-42-2977	07/26/93	08/25/03	THE FORM 23C
1040	12/31/89	226-42-2977	02/26/96	03/27/06	145391.30
1040	12/31/90	226-42-2977	02/26/96	03/27/06	SIGNED & DATED BY
1040	12/31/90	226-42-2977	02/26/96	03/27/06	159223.77
1040	12/31/91	226-42-2977	07/26/93	08/25/03	QUALIFIED ASSESSOR
1040	12/31/91	226-42-2977	02/26/96	03/27/06	177595.35
1040	12/31/92	226-42-2977	05/07/95	06/08/09	OFFICER. I HAVE NOT
1040	12/31/92	226-42-2977	02/26/96	03/27/06	140655.70
1040	12/31/93	226-42-2977	04/17/95	05/17/05	RECEIVED A 23C
1040	12/31/93	226-42-2977	02/26/96	03/27/06	178165.85
I AM NOT A U.S. INDIVIDUAL WHAT IS THE CORRECT OMB NUMBER FOR A 1040 FORM? WHAT IS THE CORRECT EXPIRATION DATE?					ASSESSMENT CERTIFICATE.

REFUSAL FOR FRAUD F.R.C.P. 9(b)

Place of Filing BUREAU OF CONVEYANCES REGISTRAR Total \$ 990735.58 IS NO

EXHIBIT-A

YOU ARE HEREBY NOTICED THAT this letter must be filed as a permanent part of my IRS/DA AIMS/IMF 23C record. If such record(s) have been deleted or substituted, this demand still applies. Initial *JS*

This notice was prepared and signed at the 09th day of July, 19

IS THIS A REVENUE OFFICER OF PUERTO RICO? VIRGIN ISLANDS? Signature for L. Title Revenue Officer 99-01 59H I AM NOT INVOLVED IN ANY ATF ACTIVITIES

(NOTE: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Attorney General Janet Reno
United States Justice Department
10th and Constitution Ave., NW
Washington, D.C. 20530

Associate Director (Enforcement)
Bureau of Alcohol, Tobacco, and Firearms
650 Massachusetts Ave. NW
Washington, D.C. 20226

Director of the Foreign Operations District
Agents for the Federal Alcohol Administration in Puerto Rico
Internal Revenue Service
Bureau of the Federal Alcohol Administration in Puerto Rico
Washington, D.C. 20226

Director Office of Disclosure
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Commissioner of the Internal Revenue Service
Ben Franklin Station, PO Box 929
Washington, D. C. 20225

Computer Records
Detroit Computing Center
1300 John C. Lodge Dr.
Detroit, MI 48226

Director, Bureau of Alcohol, Tobacco, and Firearms
Agent for the Federal Alcohol Administration in Puerto Rico
1200 Pennsylvania Avenue, NW
Washington, D.C. 20226

Director, Bureau of Alcohol Tobacco
And Firearms
650 Massachusetts Ave., NW
Washington, D.C. 20226

Office of Appeals
Internal Revenue Service
(YOUR DISTRICT)

Chief, Disclosure Branch
Room 8290
650 Massachusetts Ave., NW
Washington, D.C. 20226

Congressman (Your Congressman)
U.S. House of Representatives
238 Cannon Office Building
Washington, D.C. 20515

Chief, Administrative Program Division
Bureau of Alcohol, Tobacco,
and Firearms
650 Massachusetts Ave., NW
Washington, D.C. 20226

Senator (Your Senator)
140 Russell Building
Washington, D.C. 20510

Privacy Act Request
Bureau of Alcohol, Tobacco, and
Firearms
Room 8290
650 Massachusetts Ave., NW
Washington, D.C. 20226

Senator (Your Senator)
B34 Dirksen Senate Office Building
Washington, D.C. 20510

Assistant Commissioner (International)
950 L'Enfant Plaza SW
Fourth Floor
Washington, D.C. 20024

Freedom of Information and Privacy
Act Unit, Tax Division
U.S. Department of Justice
ATTN: Ms. Ruby McCoy
PO Box 227, Ben Franklin Sta.
Washington D.C. 20044

Internal Revenue Service
1325 K. Street NW
Washington, D.C. 20225

ATTN: Disclosure Officer Room 810
Internal Revenue Service Foreign Operations District FOD:5
PO Box 384
Washington, D.C. 20044

Internal Revenue Service
Ogden, UT 84201

Official Business
Penalty for Private Use, \$300

Address Correction Requested

PRESORTED FIRST CLASS AUTO

RECEIVED FOR FRAUD
F.R.C.P. 9(b)

First Class Mail
Postage and Fees Paid
IRS
Permit No. G-48

This letter must be filed as a permanent part
of my IRS/TDA/AIMS/IMF 23C record. If
such record(s) have/has been deleted or
substituted, this demand still applies.

INITIAL _____

You are hereby put on NOTICE that this
letter must be filed as a permanent part
of my IRS/TDA/AIMS/IMF 23C record. If
such record(s) have/has been deleted or
substituted, this demand still applies.
Recorders Initial _____

Date: _____



Department of the Treasury
Internal Revenue Service
OGDEN, UT 84201

** IF YOU HAVE ANY QUESTIONS, **
** REFER TO THIS INFORMATION: **
NUMBER OF THIS NOTICE: CP-515 M F
DATE OF THIS NOTICE: 06-08-1998
TAXPAYER IDENT. NUM:
TAX FORM: 1040 199824
TAX PERIOD: 12-31-1995



You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/DA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____



REQUEST FOR YOUR TAX RETURN

Our records show that we haven't received the following tax return from you.

Form number: 1040 Tax period ENDING: 12-31-1995
Title: US INDIVIDUAL INCOME TAX RETURN

If you haven't filed this tax return, please prepare it and send it to us today. Attach your payment for any tax due. We'll bill you for any interest and penalties. If you can't pay the entire amount, send as large a payment as you can and tell us when you can pay the rest. We may be able to arrange for you to pay in installments.

REFUSED FOR FRAUD
F.R.C.P. 9(b)

If you have already filed this tax return, please send us a copy of it. Be sure to sign, or re-sign, the copy and date it. Or you can complete the information that applies to you on the enclosed Form 9358, Information About Your Tax Return.

If you believe the law does not require you to file this tax return, please tell us why on the enclosed Form 9358.
[Note: Self-employed people must file a tax return to report their social security tax if their net earnings from self-employment are \$400 or more.]

If you need assistance, call 1-800-829-1040
1-800-829-1040

Hours of Operation are Mon. - Fri. 7:00 am through 11:00 pm

* *** FILING FEDERAL TAX RETURNS *** *
* As a current or retired federal employee, you are obligated *
* to file and pay your federal taxes as imposed by law. *



Department of the Treasury
Internal Revenue Service
CINCINNATI, OH 45999

ATF

which IRS?

007184 199612

Notice Number: CP 504

Notice Date: 09-14-1998

Return

From 670

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/DA/AMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

SSN/EIN:
Caller ID: 551

See 1974 privacy Act

not my name

US 31 SOUTH
INDIANAPOLIS IN

Not my location
Territorial location only
No Assessment



307742314101

Final Notice !!

No penalty or interest on a 1040

We intend to levy. Please respond NOW.

(To avoid additional penalty and interest pay your overdue liability in full now.)
No proof that I owe anything
No Assessment
No Assessment
No 23C

Our records indicate you haven't paid the amount you owe. The law requires that you pay your tax at the time you file your return. This is a formal notice of our intent to levy (take) your paycheck, bank account, auto, or other property if we don't receive your payment in full. We can also file a Notice of Federal Tax Lien, if we haven't already done so. Please pay the current balance now. If you've already paid it, can't pay it, or have arranged for an installment agreement, it is important that you call us immediately at the telephone number shown below.

REFUSED FOR FRAUD

which return?
I am not involved in any ATF or U.S. customs activity!!

INT for U.S. citizens of Virgin Islands (b)
Account Summary

ATF only
customs

I do not owe this

Form: 1040A Tax Period: 12-31-1996

Date: Current Balance: \$4,233.56

Includes:
Penalty: \$0.00
Interest: \$19.44
Last Payment: \$0.00

No Penalty or interest for a 1040 not a taxpayer

Questions? Call us at 1-800-829-8815

See enclosed Publication 594 that explains your rights and responsibilities as a taxpayer.

Please mail this part with your payment, payable to Internal Revenue Service

Notice Number: CP 504

which Internal Revenue Service for SMF
for U.S. Individuals of Virgin Islands
write on your checks

Notice Date: 09-14-1998

1040A 12-31-1996 307-74-2314 DECEASED FOR FRAUD Amount Due: \$4,233.56

ER.C.P. 9(b)

IL 30 0 9612 670 00000423356

which Internal Revenue Service

Not my name

Internal Revenue Service
CINCINNATI, OH 45999

Date:

US 31 SOUTH
INDIANAPOLIS IN

Please correct your records to reflect these changes

Territorial address not mine

you send this in to them to fill out

AFFIDAVIT

Date: _____

your address here

This affidavit is to be completed and returned to:

Account #: _____

1. Under code sections 6001, 6011, 6012(a) I am required by law to provide you with the following information when asked to do so.

2. You are a taxpayer as defined in section 1.1-1, Title 26 Code of Federal Regulations. The section in Title 26 U.S.C.A. that makes you a taxpayer subject to the individual income tax is _____.

3. The implementing regulation in Title 26, Code of Federal Regulations that gives the above section the force of law is _____.

4. The regulating statute from the United States Statutes at Large is _____.

5. The correct form that you are required by law to file is _____.

6. Form _____ has an OMB number of _____ and expires _____.

7. You were noticed by Certified Mail on the _____ day of _____, _____ by the District Director, _____, to keep certain specified books and records to determine if you had any taxable income.

Signature of IRS official completing this affidavit

Date Signed

INTERNAL REVENUE SERVICE

Address

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

To Whom It May Concern.

You sent a certified letter dated _____, 1999 with Certified Number _____
(see Exhibit A). At the bottom of the letter you cite Section _____ of the Internal
Revenue Code which has its Enforcement Regulations under 27 CFR Parts 70,
(See Exhibit B).

I am not involved in any BATF type of activities. I do not even smoke, drink alcohol of
any type, use any drugs, or own any firearms. Nor do I sell or manufacture any of these
items.

If you have any proof to the contrary please send it to me immediately.

Sincerely,

Former Account #:

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND SWORN:

On this _____ day of _____, _____, personally
appeared, personally known to me, OR proved to me on the basis of satisfactory evidence
to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____



INSPECTOR GENERAL
for TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

December 2, 1999

Complaint Number: C199900

Dear Mr. [REDACTED]:

This is to acknowledge receipt of your complaint by the Office of the Treasury Inspector General for Tax Administration (TIGTA). This office will review your complaint and evaluate it for appropriate action. If you should have additional information regarding this matter, please call the TIGTA Hotline at 1-800-366-4484, or you may write to:

Treasury Inspector General for Tax Administration
Attn: Complaint Management Division
Ben Franklin Station – P.O. Box 589
Washington, DC 20044-0589

Federal privacy laws generally prevent an agency from publicly disclosing information regarding a third party, such as the status or result of an investigation of a particular person. Consequently, TIGTA will usually be unable to provide you much information concerning your complaint.

Some limited information about your complaint might, however, be available to you under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The kind of information that might be available would be information about you or information you provided, such as a copy of any correspondence you might have sent to us. Requests for information under the FOIA should be directed to TIGTA's Disclosure Office.

If you contact us again about your complaint, please refer to the Complaint Number referenced above. Thank you for bringing this matter to our attention.

Sincerely,

Director, Complaint Management Division

FREEDOM OF INFORMATION ACT REQUEST

TO: DEPARTMENT OF THE TREASURY
DISCLOSURE OFFICER, MICHAEL ORMOND
INTERNAL REVENUE SERVICE
PO BOX 12267, STOP 68
COVINGTON, KENTUCKY 41019

FROM:

Former Acct #:

Date: _____

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 reasonably segregative. I am waiving inspection of the requested records.
3. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to me for the years: 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998.

BACKGROUD: Somebody from your office sent a correspondence (hereafter known as Exhibit A) from one of your examiner's and I cannot read the name.

5. Please send a copy of the documentation which shows the examiner's position and GS level with the IRS along with a printed copy of their name.

I understand the penalties provided in 5 USC 552a (i) (3) for requesting or obtaining access to records under false pretenses.

Sincerely,

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND SWORN:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

DATE: 08/31/1998 DISTRICT: NORTH-SOUTH CAROLI

TELEPHONE NUMBER SEQNUM 00009

REPLY TO:
P.O. BOX 2502
MEMPHIS, TN 38101

OF IRS OFFICE:
NASHVILLE
TOLL FREE 1-800-829-4933

TO:

P 56-0927594

WACHOVIA BANK OF N.C. N.A.
P O BOX 3099 MC NC38107
100 N MAIN ST
WINSTON SALEM NC 27101

IDENTIFYING NUMBER(S): 246-90-437
BOST 0 02

Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
1040	12-31-1995	\$ 4,909.78	\$ 383.96	\$ 5,293.74

THIS LEVY WON'T ATTACH FUNDS IN IRAS, SELF-EMPLOYED INDIVIDUALS' RETIREMENT PLANS, OR ANY OTHER RETIREMENT PLANS IN YOUR POSSESSION OR CONTROL UNLESS IT IS SIGNED IN THE BLOCK TO THE RIGHT. Total Amount Due \$ 5,293.74

We figured the interest and late payment penalty to 09/30/1998

Although we have told you to pay the amount you owe, it is still not paid. This is your copy of a notice of levy we have sent to collect this unpaid amount. We will send other levies if we do not get enough with this one.

Banks, credit unions, saving and loans, and similar institutions described in section 408(n) of the internal Revenue Code must hold your money for 21 calendar days before sending it to us. They must include the interest you earn during that time. Anyone else we send a levy to must turn over your money, property, credits, etc. that they have (or are already obligated for) when they would have paid you.

If you decide to pay the amount you owe now, please bring a guaranteed payment (cash, cashier's check, certified check, or money order) to the nearest IRS office with this form, so we can tell the person who received this levy not to send us your money. If you mail your payment instead of bringing it to us, we may not have time to stop the person who received this levy from sending us your money.

If we have erroneously levied your bank account, we may reimburse you for the fees your bank charged you for handling the levy. You must file a claim with the IRS on Form 8546 within one year after the fees are charged.

If you have any questions, or want to arrange payment before other levies are issued, please call or write us. If you write to us, please include your telephone number and the best time to call.

Signature of Service Representative 	Title Chief, Collection Branch
----------------------------------------------------------------------------------------------------------------------------	-----------------------------------

Third Party Checklist For Determining Validity of IRS Notices of Levy

If you have received a Notice of Levy, do not proceed or process the Notice of Levy until you have answered the following questions. Unless you can answer these questions YES. Inform the IRS that you are unable to honor the levy until all legal requirements are met.

- Remember a "Notice of Levy" is not a "Levy".

- Is there a copy of the court order and a notice of seizure attached and included with the Notice of Levy?

- Is the Notice of Levy signed by an IRS agent and is there a proper delegation order from the Secretary of the Treasury giving the particular agent the legal authority to issue a Levy? Again a notice of levy is not a levy.

There are other regulations that the IRS must follow before they can file a Notice of Levy, however these are the most pertinent that would effect you as the person taking the property.

If all the above conditions have been satisfied, the levy may be valid. However, if you turn over property in response to an improper levy, the individual who owns the property can sue you personally for punitive as well as actual damages under (26 CFR 301.6332- 1c). Please have your legal counsel review these sections of the regulations to verify what I have explained to you.

Remember it is your responsibility as a fiduciary to insure that all legal requirements are met.

Department of the Treasury - Internal Revenue Service
Income Tax Examination Changes

Name and Address of Taxpayer	SS or EI Number:		Return Form No.
	Person with whom examination changes were discussed	Name and Title	
		DON BREWINGTON-TAXPAYER	
1. Adjustments to Income	Tax Year End 12/31/96	Tax Year End	Tax Year End
A. EXEMPTIONS	\$ (2,550.00)	\$	\$
B. INCOME	17,700.00		
C. STANDARD DEDUCTION	(3,350.00)		
D.			
E.			
F.			
G.			
H.			
I.			
J.			
K.			
L.			
M.			
N.			
O.			
P.			
Q.			
R.			
S.			
2. Total Adjustments	11,800.00		
3. Taxable Income Per Return or as Previously Adjusted	0.00		
4. Corrected Taxable Income	11,800.00		
Tax Method	TAX TABLE		
Filing Status	MARRIED SEPARATE		
5. Tax	1,774.00		
6. Additional Taxes			
7. Corrected Tax Liability	1,774.00		
8. Less Credits			
A.			
B.			
C.			
D.			
9. Balance (Line 7 less total of lines 8A through 8D)	1,774.00		
10. Plus Other Taxes			
A.			
B.			
C.			
D.			
11. Total Corrected Tax Liability (Line 9 + lines 10A to 10D)	1,774.00		
12. Total Tax Shown on Return or as Previously Adjusted	0.00		
13. Adjustments to			
A. Special Fuels Credit			
B.			
14. Deficiency - Increase in Tax or (Overassessment - Decrease in tax) (Line 11 less Line 12 adjusted by Line 13)	1,774.00		
15. Adjustments to Prepayment Credits			
16. Balance Due or Overpayment (Line 14 Adjusted by Line 15) (Excluding Interest and penalties)	\$ 1,774.00	\$	\$

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

Department of the Treasury - Internal Revenue Service
Income Tax Examination Changes

Name of Taxpayer:		SS or EI Number:		Return Form No. 1040
17. Penalties		Tax Year End 12/31/96	Tax Year End	Tax Year End
A. B. C. D. E. F. G. H. I. J. K. L. M. N.		\$	\$	\$
18. Total Penalties				
19. Underpayment attributable to negligence: (1981 - 1987) An addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.				
20. Underpayment attributable to fraud: (1982 - 1987) An addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.				
21. Underpayment attributable to Tax Motivated Transactions: TMT interest will accrue and be assessed at 120 percent of the underpayment rate in accordance with IRC 6621(c).				
Summary of Taxes, Penalties and Interest:				
A. Balance due or Overpayment of taxes (line 16, page 1)		1,774.00		
B. Penalties (line 18, page 2) (computed to 03/04/98)				
C. Interest (IRC 6601) (computed to)				
D. TMT Interest (computed to on TMT underpayment)				
E. Amount due or refund (sum of lines A. B. C. and D.)		1,774.00		

Other Information:

Examiner's Signature Christina Riggs	District Ohio	Date 02/02/98
-----------------------------------------	------------------	------------------

4527 **41739K** Each
08/1988 Destroy Prev Issues Upon Rec
Empl. Appl. for Reimburs. of Expenses
Upon Sale or Purch. of Residence Upon
Change of Offic. Station
 This revision was effected to show the in-
 crease in the aggregate amount of ex-
 penses, which may reimbursed for selling
 of old residence or purchasing a new resi-
 dence. *F:S Internal Use*

4532 **41744D** Each
01/1981 Destroy Prev Issues Upon Rec
Retirement Computation Record
 This form is prescribed to provide retirement
 computation counsel for employees on an
 optional basis. *HR:P:E Internal Use*

4536 **23095P** Each
06/1991 Use/Issue Prev Issue First
Application for Promotion/Reassignment
 Form 4536 is used by employees to request
 consideration for any vacant positions. Sep-
 arate cards are required to request consid-
 eration for more than one kind of position
 and grade, more than one organization or
 more than one post of duty. *M:S:P:R Internal Use*

4537 **41748V** Each
05/1985 Destroy Prev Issues Upon Rec
Roster of Eligibles for Promotion and
Promotion Certificate
 Form is partially filled in by personnel of-
 fices and completed by supervisors select-
 ing employees for promotion. Form is a
 record of all candidates being considered
 for a vacancy. Shows criteria for selecting
 highly qualified candidates, and shows
 employee(s) actually selected.
HR:H:R Internal Use

4549 **23105A** Each
11/1993 Destroy Prev Issues Upon Rec
Income Tax Examination Changes
 This form is the basic form used for agreed
 (at Revenue Agent's Level) income tax
 cases and is prepared by examination offi-
 cers at conclusion of their examination.
CP:EX:ST:P Tax Related Public Use

4549 (C) **23107W** Each
09/1991 Destroy Prev Issues Upon Rec
Income Tax Examination Changes
 This form was revised due to recent tax law
 changes to show prepayment credits. This
 form is the basic Report form used for
 agreed (at Rev. Agents level) income tax
 cases and is prepared by exam. officers
 at conclusion of their exam. It conforms with
 1902-E. *CP:EX:CS Tax Related Public Use*

→ **4549 A** **23110T** Pad
05/1994 Destroy Prev Issues Upon Rec
Income Tax Examination Changes
 This is the basic report form for unagreed
 and accepted agreed cases for individual,
 corporation, taxable fiduciary and taxable
 small business corporation cases.
CP:EX:CS:STU Tax Related Public Use

4549 B **23120P** Each
07/1980 Use/Issue Prev Issue First
Income Tax Examination Changes
 This is a continuation sheet used with
 Forms 4549, 4549-A and 4605 and 4605-A
 when there are more adjustments than lines
 provided on the basic form. *EX:E:D Tax*
Related Public Use

4549 E **13383E** Each
05/1993 Destroy Prev Issues Upon Rec
Income Tax Discrepancy Adjustments
 This form was revised to add changes to
 the adjustments processed used by EP/EO
 Division. *CP:E:EP:FC Tax Related Public*
Use

4557 **41768N** Each
01/1981 Destroy Prev Issues Upon Rec
New First-Level Manager Training
 Use of this form is mandatory for service-
 wide uniformity in recording new first-line
 managers training needs, basis for deter-
 mination of needs, and formal training ac-
 tually provided. The training offices
 responsible for the training of new manag-
 ers are responsible for maintaining this form
 for inclusion in the individual's personnel
 file. *HR:T:M Internal Use*

4562 **12906N** Each
1998 Min Supply For Late Filers
Depreciation and Amortization
 For optional use by individuals, estates and
 trusts, partnerships, and corporations
 claiming depreciation. There are separate
 Instructions available for this item. The ca-
 talog number for the Instructions is 12907Y.
T:FP:F:CD Tax Form or Instruction

4562 (U) **15789Q** Each
1998 Min Supply For Late Filers
Depreciation and Amortization
 For optional use by individuals, estates and
 trusts, partnerships, corporations claiming
 depreciation. There are separate in-
 structions available for this item. The cata-
 log number for the Instructions is 12907Y.
 This particular form is coded with a (u) and
 will be distributed to POD's in the western
 region. This is a forms distribution test be-
 ing monitored by Southwest region. This
 form will be for one time use.
T:FP:F:CD Tax Form or Instruction

4563 **12909U** Each
12/1998 Min Supply For Late Filers
Exclusion of Income for Bona Fide
Residents of American Samoa
 This form is used by a US citizen who
 worked in a U.S. possession and who
 wanted to see if they qualified for the "pos-
 session exclusion". *OP:FS:FP:F:I Tax*
Form or Instruction

4564 **23145K** Each
06/1988 Use/Issue Prev Issue First
Information Document Request
 Used by revenue agents to request docu-
 ments from taxpayers. *CP:EX:CS:C Tax*
Related Public Use

4570 **41779U**
11/1990 Destroy Prev Issues Up
Chargeout Card
 This form is used in personnel
 maintain satisfactory control over
 lease of official personnel
M:H:S Internal Use

4571 **41780V**
05/1979 Use/Issue Prev Issue Fir
Explanation for Filing Return La
Paying Tax Late
 Form 4571 is used by a taxpayer t
 either the late filing of a tax return c
 paying of a tax liability. *CP:CO:C*
Related Public Use

4582 A (C) **41797Q**
04/1993 Destroy Prev Issues Upon
Certification of Completion
 Form 4582-A includes a blank signa
 for signature of field training office.
 revised version will show the au
 completion of training certificates or
HR:H:T:P Internal Use

4585 **23185U**
06/1991 Destroy Prev Issues Upon
Minimum Bid Worksheet
 Form 4585 is used by revenue off
 document certain seizure and sal
 ities. *CP:CO:C:FP Tax Related*
Use

4589 **23195Q**
11/1998 Destroy Prev Issues Upon
Lost or Forgotten I.D. Badge Reco
 This form is used in conjunction w
 IRS Personnel Identification System.
 be used by employees who lose or
 their ID badges. *M:RE:FP Intern*

4598 **23205B**
05/1996 Destroy Prev Issues Upon
Form W-2, or 1099 Not Received or
Incorrect
 Form 4598 is a three-part form that
 an employer or payer that an employ
 not received a Form W-2 or 1099.
 forms have incorrect information.
 has a part that goes to employees a
 tifies them of the action IRS has
T:C:O:A Tax Related Public Use

4605 **23210U**
11/1986 Use/Issue Prev Issue First
Examination Changes - Partnershi
Fiduciaries, S Corps., & Interest C
Domestic Inter. Corps.
 This form is used for reporting exam
 changes in partnerships, fiduciaries
 business corporations and domesti
 national corporations. *CP:EX:C T*
lated Public Use

4605 A **41817X**
09/1986 Destroy Prev Issues Upon
Examination Changes - Partnershi
Fiduciaries, Small Business Corps
Domestic Intl. Sales Corp.
 Basic report form for unagreed a
 cepted agreed cases for partnershi
 cians, small business corporation
 domestic international sales corpo
EX:E:D Internal Use

↑ 1999 IRM 676 Forms

This CG letter must be customized to your letter, with Exhibits. Call us if you need help in this area or send us your letter and 50⁰⁰

C. Ashley Bullard, District Director
Department of the Treasury
Internal Revenue Service
P.O. Box 476, Room 7001
Cincinnati, Ohio 45201

This letter must be filed as a permanent part of any IRS/CD/AM/REG/ST/200 record. If such record(s) have/has been deleted or substituted, this demand still applies
INITIALS _____

June 12, 1998

Dear District Director:

I am writing to request that you review my file for the year 1996. I am making this request pursuant to IR Manual 1218, "Policies of the Internal Revenue Service". In particular, the following policies state:

P-1-156: "Keeping the taxpaying public informed by communicating provisions of the law in understandable terms...", and;

P-1-179: "Since taxpayers must compute their taxes under a body of laws and regulations, some of the provisions of which are complex, the Service has the responsibility of providing taxpayers with all possible information to assist them in the performance of their obligations...", and;

P-1-180: "The Service recognizes the people's right to know about their tax laws and the manner in which they are administered.", and;

P-6-10: "The public impact of clarity, consistency, and impartiality in dealing with tax problems must be given high priority.", and;

P-6-12: "Timeliness and Quality of Taxpayer Correspondence" - "The Service will issue quality responses to all taxpayer correspondence. Taxpayer correspondence is defined as all written communication from a taxpayer or his/her representative, excluding tax returns, whether solicited or unsolicited. This includes taxpayer requests for information, as well as that which may accompany a tax return; responses to IRS requests for information; and annotated notice responses. A quality response is timely, accurate, professional in tone, responsive to taxpayer needs (i.e., resolves all issues without further contact).", and;

P-6-20: "Information provided taxpayers on the application of the tax law" - "The Service will develop and conduct effective programs to make available to all taxpayers comprehensive, accurate, and timely information on the requirements of tax law and regulations. Positive efforts will be made to determine the taxpayers' needs and to effectively meet those needs. Information will be provided through a variety of means, including telephone and other assistance programs..."

I have received numerous letters from various agents of the Internal Revenue Service requesting a tax return. I have responded to each of these requests and asked for information as

Chapter 5200 (Exhibit E) a Form 1040 is not listed as being involved with an assessment procedure and Form 1040 is the form listed on the 4549-CG.

Furthermore, I have not refused to file. I have only asked for clarification as to the particular type of tax, the taxing statute and the implementing regulation so I can assess myself and file the proper required form. I want to pay any tax for which I am liable. I am not a tax protester.

I have received a CP 515 letter and a CP 518 letter in regard to these same years. Whoever the anonymous sender was, they sent a three digit computer paragraph letter to a flesh and blood person who has unwittingly been deceived into filing in the past(IMF). Section 9 of the 6209 Manual (Exhibit F) clearly states that three digit CP letters are only for BMF and IRAF. I am not a business.

In the three digit CP letters, a Form 1040 for "U.S. Individual Income Tax" is always alluded to as if this was the required form to file. The Form 1040's OMB # is associated with over one hundred twenty-five (125) particular regulations listed in 26 CFR 602.101. (Exhibit G) I have asked which particular regulation they presume applies to me. Is the IRS presuming they all apply to me? Am I supposed to guess which one(s) you presume apply to me? No one has even attempted to answer my question and address the very real need I have for this information!

I am sure that you can see why I think there is a conspiracy to defraud and extort money from me.

So far, I have been denied due process by the Internal Revenue Services' failure to follow its own policies and procedures. There has been no attempt to issue "quality responses to my requests for information" or to "resolve all issues without further contact" and I am tired of being harassed and intimidated by letters and bogus forms.

I would appreciate you looking into this matter. If you cannot furnish the particular type of tax, the taxing statute, and the implementing regulation that the IRS is claiming I am liable for within ten (10) days, or a written statement that I am not required to file under the Internal Revenue Code and its Regulations, then consider this my formal request for a hearing with the Problem Resolution Officer and have him/her contact me so we can set up a date and time for the hearing.

Thank you for your anticipated cooperation.

Enclosures: Exhibits A-G
cc: Bill Lee

c/o [unclear] Avenue
Cincinnati, Ohio 452[unclear]
Account# [unclear]

Summons

Collection Information Statement



Department of the Treasury
Internal Revenue Service

In the matter of
Internal Revenue District Georgia

Periods December 31, 1992, December 31,
December 31, 1994

The Commissioner of Internal Revenue

To _____

At _____

You are hereby summoned and required to appear before S.J. BUSH or his/her designee, an Internal Revenue Service officer, to give testimony and to bring for examination the following information related to the tax liability of the taxpayer identified above for the periods shown:

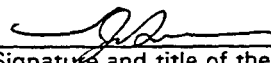
All documents and records you possess or control regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. Such records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, savings and passbooks, records or certificates of deposit for the period:

from January 1, 1997 to January 1, 1998.

Also include all current vehicle registration certificates, deeds or contracts regarding real property, stock and bonds, all notes and judgments receivable, and all current life or health insurance policies.

IRS will use this information to prepare a Collection Information Statement. We have attached a blank statement to guide you in producing the necessary documents and records.

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.


Signature and title of the IRS official serving the summons

Business address and telephone number of Internal Revenue Service officer named above:

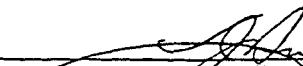
Baconsfield Office Park, Bldg C, Suite 100, Macon, GA 31201 (912) 752-8220


Place and time for appearance:

at Baconsfield Office Park, Bldg C, Suite 100, Macon, GA 31201

on the 19th day of February, 1998, at 10:00 o'clock A.M.

Issued under authority of the Internal Revenue Code this 23rd day of January, 1998.



Signature of Issuing Officer


Signature of Approving Officer (if applicable)

Revenue Officer
Title
Acting GM
Title

EXHIBIT 3



Related Internal Revenue Code Section

Sec. 7602 Examination of books and witnesses

(a) Authority to Summon, Etc.—For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books or account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(b) Purpose May Include Inquiry Into Offense.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

(c) No Administrative Summons When There is Justice Department Referral.—

(1) Limitation of authority.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

(2) Justice Department referral in effect.—For purposes of this subsection—

(A) In general.—A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for an offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6102(a)(3)(B) for the disclosure of any return or return information (within the meaning of section 6102(a) relating to such person.)

(3) Termination.—A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for an offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation.

(ii) a final disposition has been made of any criminal proceeding pertaining to the en-

forcement of the internal revenue laws which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

(3) Taxable years, etc., treated separately.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.

Authority to examine books and witnesses is also provided under—

sec. 6420 (e) (2) — Gasoline used on farms; sec. 6421 (g) (2) — Gasoline used for certain nonhighway purposes, used by local transit systems or sold for certain exempt purposes; and sec. 6427 (j) (2) — Fuels not used for taxable purposes.

Sec. 7603. Service of summons

A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by the Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

Sec. 7604. Enforcement of summons

(a) Jurisdiction of District Court.—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) Enforcement.—Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States commissioner¹ for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner¹ shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce

obedience to the requirements of the summons and to punish such person for his default or disobedience.

Sec. 7605. Time and place of examination

(a) Time and Place.—The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

Sec. 7609. Special procedures for third-party summonses

Special provisions relating to the issuance of summonses to a third-party recordkeeper are contained in section 7609. Generally, a taxpayer must be notified when a third-party recordkeeper is summoned. However, this summons is exempt from the notice requirement by section 7609(c)(2)(B).

Sec. 7610. Fees and costs for witnesses

(a) In General.—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

(1) fees and mileage to persons who are summoned to appear before the Secretary, and

(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

(b) Exceptions.—No payment may be made under paragraph (2) of subsection (a) if—

(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

(c) Summons to Which Section Applies.—This section applies with respect to any summons authorized under section 6420(e)(2), 6421(g), 6427(j)(2), or 7602.

Sec. 7210. Failure to obey summons

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), 7602, 7603, and 7604, neglects to appear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, both, together with costs of prosecution.

¹Or United States magistrate, pursuant to P.L. 90-578



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons attached to this form on:

Date: 1/23/98

Time: 5:10 P.M.

How Summons Was Served

I handed an attested copy of the summons to the person to whom it was directed.

I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any).

Signature

[Handwritten Signature]

Title

REVENUE OFFICER

THE COPY SERVED CONTAINED THE REQUIRED ATTESTATION.

[Handwritten Signature]
REVENUE OFFICER

Form 2039

(Rev. 11-78)

Summons



Department of the Treasury
Internal Revenue Service

Harrison Sales Co., Inc.
718 Rand Street
Houston, Texas 77015

In the matter of the tax liability of Harrison Sales Co., Inc. ①
Internal Revenue District of Austin, Texas ② Periods 19--, 19--, and 19--. ③

The Commissioner of Internal Revenue
Mr. J.C. Harrison, as President of ④
To Harrison Sales Co., Inc.
At 718 Rand Street, Houston, Texas 77015 ⑤

You are hereby summoned and required to appear before Norman A. Stone ⑥
an officer of the Internal Revenue Service, to give testimony relating to the tax liability or the collection of the tax liability of the person identified
above for the periods shown and to bring with you and produce for examination the following books, records, papers, and other data:

The following records of Harrison Sales Co., Inc.
Customer's files for the years 19-- , 19-- , and 19-- containing the following data:

- (1) Retained copy of customer's invoices on charge sales made in the years 19-- , 19-- , and 19-- . ⑦
- (2) Delivery receipts on these sales.
- (3) Customer's accounts receivable account cards reflecting installment payments made on these sales.

Customer's account cards for accounts to whom sales were made in 19-- , 19-- , and 19-- on which current payments are still being made are excepted from the requirement for production at the time and place shown, provided that access to such of these records as is required will be granted at a mutually appointed time at the company's office, to be agreed upon at this appearance.

Business address and telephone number of Internal Revenue Service officer named above:
Suite 250, 2525 North Loop W., Houston, Texas 7713-527-4681 ⑧

Place and time for appearance:
at 210 Federal Land Bank Building, 430 Lamar Ave., Houston, Texas ⑨
on the 29th day of July, 19-- at 10:00 o'clock A. M.

Issued under authority of the Internal Revenue Code this 18th day of July, 19--
Norman A. Stone ⑩ Special Agent
Signature of Hearing Officer
Raymond Morrison ⑬ Group Manager
Signature of Approving Officer (if applicable)

Original to be kept by IRS
Part A - To be given to person summoned
Part C - To be given to noticee
Form 2039 (Rev. 11-78)
Form 2039-A (Rev. 11-78)
Form 2039-C (Rev. 11-78)

Form 2039

Certificate of Service of Summons and Notice



(Pursuant to section 7609, Internal Revenue Code).

I certify that I served the summons shown on the front of this form on:
Date July 18, 19-- ⑭ Time 10:15 A.M.

How I handed an attested copy of the summons to the person to whom it was directed.
Summons ⑮ 718 Rand Street, Houston, Texas ⑯
Was Served I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): ⑰

Signature Norman A. Stone ⑱ Title Special Agent

This certificate is made to show compliance with section 7609, Internal Revenue Code. This certificate applies only to summonses served on third-party recordkeepers and not to summonses served on other third parties or any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection. Section to determine the identity of a person having a numbered account or similar arrangement, or to determine whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Form 2039-D) to the person named below on the date and in the manner indicated:
Date of Giving Notice: ⑲ Time: ⑲
Name of Noticee: ⑳
Address of Noticee (if mailed): ⑳

How Notice Was Given I gave notice by certified or registered mail to the last known address of the noticee. ㉑ I gave notice by handing it to the noticee. ㉑ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). ㉑ In the absence of a last known address of the noticee, I left the notice with the person summoned. ㉑ No notice is required. ㉑

Signature Norman A. Stone ㉒ Title Special Agent

Form 2039 (Rev. 11-78)

[§ 50.425] United States of America and James A. Hill, Special Agent, Internal Service, Petitioners-Appellants v. James E. Michaud and Mary L. Michaud, Respondents-Appellees.

U.S. Court of Appeals, 7th Circuit, 89-1684, 89-1986, 7/24/90, 907 F.2d 750 R rehearing and remanded to District Court, 90-1 USTC ¶ 50,145, 897 F.2d 264

[Code Sec. 7602]

Summons; Enforcement; Discovery; Examination of books and records; Criminal proceedings.—A federal appellate court set aside its decision upholding an IRS summons calling for taxpayers' handwriting samples and fingerprints and remanded the case to the trial court for further findings of fact. The trial court's opinion quashing enforcement of the IRS summons did not sufficiently set out the grounds on which its ruling was based. Specifically, the trial court was directed to determine whether the IRS was harassing taxpayers for an improper purpose, whether it was attempting to abuse the court's process, whether it failed to establish good faith, whether it had already made a decision to prosecute the taxpayers, and, most importantly, which of the grounds, if any, were violated with respect to its decision. Back references: ¶ 43,727.08, 43,727.10 and 43,727.65.

Gary R. Allen, Charles E. Brookhart, Michael Roach, William W. Whittedge, James D. Shirley, D. Peterson, Mary Elizabeth Bielefeld, Department of Justice, Washington, D.C. 20530 petitioners-appellants; F. Patrick Matthews, Weis, Berzowski, Brady & Donahue, 700 N. W. Milwaukee, Wis. 53202, for respondents-appellees.

Before BAUER, Chief Judge, CUMMINGS, WOOD, JR., CUDAHY, POSNER, COFFEY, FLAUM, BROOK, RIPPLE, MANION and KANNE, Circuit Judges.

BAUER, Chief Judge, joined by CUMMINGS, WOOD, JR., CUDAHY, COFFEY, FLAUM and KANNE, Circuit Judges: In this case we reconsider *United States v. Michaud* [90-1 USTC ¶ 50,145], Nos. 89-1684 & 89-1986 (7th Cir. March 8, 1990) (attached as an appendix to the dissent hereto) ("*Michaud I*"), in which a panel of this court reversed an order by District Judge Terence T. Evans. Judge Evans quashed several summonses issued by the Internal Revenue Service ("the Service") which directed the Michauds to submit to fingerprinting and to provide handwriting exemplars. The Service claimed (and still claims) that this information is relevant to its civil investigation into the employment and unemployment tax liabilities of Superior Engineering, Inc., a Green Bay corporation of which the Michauds were shareholders and officers. In the order at issue here, Judge Evans appeared to reject this claim and denied enforcement based in some part on that reason. The panel in *Michaud I* found reversible error in that decision, holding that Judge Evans had no basis for quashing the summonses. Because Judge Evans' order is ambiguous on several potentially dispositive points, we depart from the tack taken by the panel and remand to Judge Evans for additional findings.

capricious action by placing the burden between the Government and the person summoned." *Id.* at 151.

The above-cited sections of the Internal Revenue Code give district courts the authority to "render such judgments and decrees as necessary or appropriate for the enforcement of the internal revenue laws," § 7402(a), "make such order[s] as [they] deem proper, inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the [Service's] summons." § 7604(b).¹ Under this authority, district courts deny enforcement of the Service's demands when they find that the Service is acting in bad faith or attempting to abuse the court's process. "Such an abuse would take place if the summons had been issued for an improper purpose, as to harass the taxpayer or put pressure on the taxpayer to settle a collateral dispute, or for any purpose not reflecting on the good faith of the taxpayer's investigation." *United States v. Powell*, 379 U.S. 48, 58 (1964).

Along with this power and duty to check for abuse, district courts hold the Service to the burden of making a *prima facie* showing of "good faith." As established in *Powell*, a *prima facie* case must include the following elements:

[The Service] must show [1] that the investigation will be conducted pursuant to a legitimate purpose, [2] that the inquiry is relevant to the purpose, [3] that the information sought is not already within the Service's possession, and [4] that the administrative steps required by the Code have been followed....

379 U.S. at 57-58. Thus, a district court may deny the Service's demands on a taxpayer if it finds that the Service has fallen short of establishing these four elements, or if the tax-

At the heart of this controversy lie important questions of when and how the Service can, in the course of a civil investigation, bring to bear against a taxpayer the full weight of federal enforcement mechanisms. Primary responsibility over these questions has been entrusted to the federal district courts, which have the power and duty to monitor these investigations through the enforcement (and non-enforcement) of the Service's demands on taxpayers. 26 U.S.C. §§ 7402, 7604 & 7605. See also *United States v. Bisceglia* [75-1 USTC ¶ 9247], 420 U.S. 141, 146-47 (1974) and the cases cited there. "Congress has provided protection from arbitrary or

¹ See also 26 U.S.C. § 7402(b).

The district courts also enforce the Code's restrictions on the time, place and manner of the Service's examination of taxpayers contained in § 7605.

If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which the person resides or may be found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

No taxpayer shall be subjected to unnecessary duplication or investigation, and only one inspection of a taxpayer's books of account shall be made for each tax year unless the taxpayer requests otherwise or unless the Service, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

26 U.S.C. § 7604(b).

FROM :

PHONE NO. :

SEP.

Office of Chief Counsel
Regional Counsel

District Counsel
Georgia District
P.O. Box 901, Stop 1000-D
Atlanta, GA 30370

Person to Contact: S.J. Bush

Telephone Number: (912) 752-8220

Date: **MAR 13 1998**

Date summons served: 1/23/98

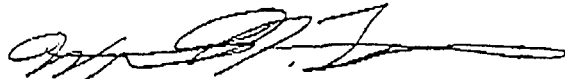
Appearance date as specified in summons: 2/19/98

The District Director of your Internal Revenue Service District has notified me that you did not provide the documents or testimony required by the summons identified above.

Legal proceedings may be brought against you in the United States District Court for not complying with the summons. To avoid such proceedings, you should keep the appointment we have arranged for you with Revenue Officer S.J. Bush on the date and at the time and address shown below. Please be sure you bring with you all records and documents specified in the summons.

If you have any questions, please contact the person named above at the address or telephone number shown.

Sincerely yours,



District Counsel

Date of your appointment: March 26, 1998

Time: 10:00 AM

Address: Internal Revenue Service
Baconsfield Office Park, Bldg. C-100
Macon, GA 31201

cc: Archbishop M.I. Brown

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA)
and Sandra J. Bush, Revenue Officer)
of the Internal Revenue Service)
)
Petitioners)
)
v.) CIVIL ACTION NO.)
)
)
Respondent)

DECLARATION

Sandra J. Bush, petitioner herein, declares:

1. I am a duly commissioned Revenue Officer employed in the Collection Division of the Office of the District Director of Internal Revenue Service at Baconsfield Office Park, Bldg C, Suite 100, Macon, GA, 31201.

2. In my capacity as a Revenue Officer, I am conducting an investigation for the collection of the tax liability of _____ for the years 1992, 1993 and 1994.

3. In furtherance of the above investigation and in accordance with Section 7602 of Title 26, U.S.C., I issued on January 23, 1998, an administrative summons, Internal Revenue Service Form 6637, to _____, to give testimony and to produce for examination books, papers, records and other data as described in said summons. The summons is attached to the Petition as Exhibit

4. In accordance with Section 7603 of Title 26, U.S.C., on January 23, 1998, I served an attested copy of the Internal Revenue Service summons described in Paragraph 3 above on the respondent, _____, by handing the copy personally to him, as evidenced in the certificate of service on the reverse side of the summons.

5. On February 19, 1998, the respondent, _____ did not appear in response to the summons. However, _____, representing Mr. _____ telephoned to request an extension of the appointment. Mr. _____ stated he had "all the documents you need" and the appointment was extended to February 23, 1998, at 2:00 PM.

EXHIBIT 

6. On February 23, 1998, the respondent, did not appear. Mr. did appear and left various documents at the front desk of the Macon IRS office. Mr. stated he did not need to speak with this Revenue Officer. The documents provided were not those demanded in the summons. Thus the respondent, Jerome Hughes, has refused to comply with the summons by producing the books, records and other documents demanded in the summons or by giving testimony as to the matters requested in said summons. The respondent's refusal to comply with the summons continues to the date of this declaration.

7. The books, papers, records and other data sought by the summons are not already in possession of the Internal Revenue Service.

8. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

9. It is necessary to obtain the testimony and/or examine the books, papers, records and other data sought by the summons in order to properly investigate the collection of the federal tax liability of for the years 1992, 1993 and 1994.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of MARCH, 1998.



Revenue Officer

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE MIDDLE DISTRICT OF GEORGIA
 MACON DIVISION

FILED
 U.S. DISTRICT COURT
 GEORGIA
 98 MAY 21 PM 2:59

J. Martin
 DEPUTY CLERK

UNITED STATES OF AMERICA,)	
and SANDRA J. BUSH,)	
Revenue Officer,)	
)	
Petitioners,)	
)	
v.)	CASE NO. 5:98-
)	
<i>AERO</i> ,)	
)	
Respondent.)	
)	
_____)	

PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS

The United States of America and Sandra J. Bush, Revenue Officer of the Internal Revenue Service, by their attorney, Beverly B. Martin, United States Attorney for the Middle District of Georgia, aver to this Court as follows:

1.

This is a proceeding brought pursuant to the provisions of 26 U.S.C. §§ 7402(b) and 7604(a) to judicially enforce an Internal Revenue Service summons.

2.

Petitioner, Sandra J. Bush, is a Revenue Officer of the Internal Revenue Service, employed in the Collection Division of

the Office of the District Director of the Internal Revenue Service in Macon, Georgia, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulations § 301.7602-1, 26 C.F.R. § 301.7602.1.

3.

Respondent has his principal place of business or resides within the jurisdiction of this Court and may be found for service at *Address*, Georgia

4.

Sandra J. Bush, Revenue Officer, is conducting an investigation into the tax liability of *HERO* for the years 1992, 1993 and 1994, and for the preparation of individual tax returns for *HERO* for the years 1995 and 1996, as is set forth in the Declarations of Sandra J. Bush, Revenue Officer, attached hereto as Exhibits 1 and 2.

5.

Respondent, *HERO*, is in possession and control of testimony and documents concerning the above-described investigation.

6.

On January 23, 1998, Internal Revenue Service summonses were issued by Revenue Officer Bush, directing the respondent to appear

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before Revenue Officer Bush on February 19, 1998, at 10:00 a.m. at Baconsfield Office Park, Bldg. C, Suite 100, Macon, Georgia, to testify and to produce for examination books, papers, records and other data described in same summonses. Attested copies of the summonses were personally served on the respondent by Sandra J. Bush, Revenue Officer, on January 23, 1998. The summonses are attached hereto and incorporated herein as Exhibits 3 and 4.

7.

On February 19, 1998, the respondent, *HERC* did not appear in response to the summonses. However, *HERC's friend* representing Mr. *HERC*, telephoned to request an extension of the appointment. Mr. *HERC's friend* stated that he had "all the documents you need", and the appointment was extended to February 23, 1998, at 2:00 p.m.

8.

On February 23, 1998, the respondent, *HERC* did not appear. Mr. *HERC's friend* did appear and left various documents at the front desk of the Macon IRS office. Mr. *HERC's friend* stated he did not need to speak with Revenue Officer Bush. The documents provided were not those demanded in the summonses. Thus, the respondent, *HERC* has refused to comply with the summonses by producing the books, records and other documents demanded in the

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summonses or by giving testimony as to the matters requested in said summonses. The respondent's refusal to comply with the summonses continues to this date as set forth in the Declarations of Revenue Officer Bush attached hereto as Exhibits 1 and 2.

9.

The books, papers, records or other data sought by the summonses are not already in the possession of the Internal Revenue Service.

10.

All administrative steps required by the Internal Revenue Code for the issuance of the summonses have been taken.

11.

It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summonses in order to properly collect the federal tax liability of respondent, *Hero*, for the years 1992, 1993 and 1994, and prepare the tax returns for *Hero*; for 1995 and 1996, as is evidenced by the Declarations of the petitioner Sandra J. Bush, attached hereto and incorporated herein as part of this petition.

WHEREFORE, the petitioners respectfully pray:

1. That this Court enter an order directing the respondent, *Hero*, to show cause, if any, why he should not comply with

and obey the aforementioned summonses and each and every requirement thereof.


2. That the Court enter an order directing the respondent, Jerome Hughes, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summonses before Revenue Officer Bush, or any other proper officer or employee of the Internal Revenue Service, at such time and place as may be directed in the Court's order.

3. That the United States recover its costs in maintaining this action.

4. That the Court grant such other and further relief as is just and proper.

BEVERLY B. MARTIN
United States Attorney

By:


FRANK L. BUTLER, III
Assistant United States Attorney
Georgia Bar No. 099550

ADDRESS:

Post Office Box U
Macon, Georgia 31202
(912) 752-3511

Freedom of Information Act

The Freedom of Information Act, also known as the FOIA, was enacted in 1974 and is the primary means by which the public has access to records in the possession of the executive branch and agencies of the Federal Government. It is operated under the premise that the public has a right to know what the Government is doing, how it is being done, and what information is being collected. However, to prevent individuals, businesses and the Government from harm resulting from the release of information, the FOIA provides a means by which limited information can be withheld from the public. See COMDTINST 5260.3, Chapter 8 for the exemptions which limits the disclosure of certain information.

NOTE: Currently, the Coast Guard does not accept FOIA requests electronically, pending new policy implementation by the Department of Transportation. FOIA requests must be submitted in writing via U.S. Postal Service mail or overnight carrier to:

Commandant (G-SII-2)
2100 2nd Street, SW, #6106
Washington, DC 20593-0001
Attn: FOIA

Donald Taylor is the Freedom of Information and Privacy Act Officer, and has responsibility for administering the program. He ensures its implementation agency wide and provides oversight for the operations and processing of initial requests. He also has responsibility for responding to all appeals Coast Guard-wide.

SII-2 receives and logs all initial FOIA requests for Headquarters. After logging the requests, he forwards them to the appropriate FOIA Coordinator within the Directorates for direct response. Last year, SII-2 received and processed over 1800 FOIA requests.

Because of the legal implications surrounding the FOIA program, our efforts are coordinated closely with G-LGL who provide guidance relative to "legal sufficiency." Also, since responding to FOIA requests involves retrieving information from records, the FOIA staff works closely with the Records Officer.

For more information, contact: the FOIA Officer at (202) 267-2324, or send e-mail.

Additional FOIA Resources:



Commandant Instruction M5260.3 - The Coast Guard
FOIA / PA Manual

Complete Text of the Freedom of Information Act

H.R. 5802 - 1996 Amendment to the FOIA

Complete List of Government-Wide FOIA Offices

7. Stock Point. *Entries indicate the source of supply for each form listed. The various stock points and their respective addresses are as follows:

<u>STOCK POINT</u>	<u>ADDRESS</u>
ACADEMY	Superintendent U. S. Coast Guard Academy New London, CT 06320-4195
AEC	Atomic Energy Commission Washington, DC 20545
ANSC	Auxiliary Nat'l Supply Center C.M. Price Support Center Granite City, IL 62040
AR&SC	Commanding Officer U. S. Coast Guard AR&SC Elizabeth City, NC 27909-5001
ATTC	Commanding Officer Aviation Technical Trng. Center Elizabeth City, NC 27909-5003
CUSTOMS	U. S. Customs Services Nat'l Distribution Center 6026 Lake Side Blvd. Indianapolis, IN 46278
*COMPGEN	Computer Generated
DOT WAREHOUSE	Department of Transportation M-443.2A 3314-Q 75th Avenue Landover, MD 20785
*FPL	Forms Plus Laser
GPO	Superintendent of Documents U.S. Government Printing Office Washington, DC 20401
GSA	General Services Administration (8BRD-9) P.O. Box 6477 Fortworth, TX 76115

*Source of Supply

1-3

COAST GUARD CATALOG OF FORMS

CG FORMS

FORM NO.	OPR/TITLE OF FORM	STOCK NUMBER	DATE	U/D	U/I	STOCKPNT
CG-4535	G-CFM-3 SALES AND COLLECTION RECORD	7530-00-F01-8210	06-67	50 SHEETS	FY	SCB
CG-4553	G-PXM USCG NAFA - PURCHASE ORDER	7530-01-GF3-8330	11-81	20 5PT SE	PD	SCB
CG-4553A	G-PXM USCG NAFA - PURCHASE ORDER CONTINUATION SHEET	7530-01-GF2-5900	07-77	4PT SE	SE	SCB
CG-4580	G-CFM-3 SUMMARY OF STORES TRANSACTIONS CG SUPPLY FUND	7530-00-F01-8430	01-68	100 SHEETS	HD	SCB
CG-4589	G-ELM RECEIPT OF APA MATERIAL	7530-00-F01-8450	03-75	100 SHEETS	HD	SCB
CG-4590	G-TPS-2 CONCURRENT CLEARANCE (FPL)	7530-00-F02-0800	05-83	50 SHEETS	FY	SCB/HQ ST.
CG-4593	G-MVI APPLICATION, CONSENT & APPROVAL FOR WITHDRAWAL OF APPLICATION FOR DOCUMENTATION	7530-00-F01-8470	09-92	100 SHEETS	HD	SCB
CG-4599	G-NBR BRIDGES OVER NAVIGABLE WATERS OF THE U.S. COMPLETION REPORT		02-90	SHEET	SH	FPL
CG-4602A	G-MEP-1 OIL RECORD BOOK FOR OIL SHIPS	7530-01-GF3-0660	07-93	BOOK	BK	SCB
CG-4602B	G-MEP-1 CARGO RECORD BOOK		01-87	BOOK	BK	GPO
CG-4608	G-OIS REPORT OF INVESTIGATION	7530-00-F02-1090	01-76	5PT SE	SE	SCB/FPL
CG-4612	G-NRS SEARCH AND RESCUE INCIDENT FOLDER	7530-00-F02-0170	04-78	50 FOLDERS	FY	SCB
CG-4612(AUX)	G-NAB/NRS SAR INCIDENT AUXILIARY REPORT	7530-01-GF2-8360	05-91	4PT SE	SE	SCB/ANSC
CG-4614	G-RSM REPORT OF ILLNESS OF RESERVIST	7530-00-F02-0890	08-70	SHEET	SH	SCB

Subpart A—Scope of Regulations

§ 179.1 General.

This part contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, identification and registration of, and the dealing in, machineguns, destructive devices and certain other firearms under the provisions of the National Firearms Act (26 U.S.C. Chapter 53).

[P.O. ATF-48, 44 FR 35842, Sept. 28, 1979]

Subpart B—Definitions

§ 179.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Antique firearm. Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Any other weapon. Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Dealer. Any person, not a manufacturer or importer, engaged in the business of sell-

ing, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

Destructive device.

(a) Any explosive, incendiary, or poison gas:

(1) Bomb;

(2) Grenade;

(3) Rocket having a propellant charge of more than 4 ounces;

(4) Missile having an explosive or incendiary charge of more than one-quarter (¼) ounce;

(5) Mine; or

(6) Similar device;

(b) Any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half (½) inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and

(c) Any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled.

The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army under 10 U.S.C. 4684(2), 4685, or 4686, or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

→ **Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. [20226]

→ **Director of the Service Center.** A director of an Internal Revenue Service Center in an internal revenue region.

→ **District director.** A district director of the Internal Revenue Service in an internal revenue district.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration:

"I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Exportation. The severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

Exporter. Any person who exports firearms from the United States.

Firearm.

(a) A shotgun having a barrel or barrels of less than 18 inches in length;

(b) A weapon made from a shotgun such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length;

(c) A rifle having a barrel or barrels of less than 16 inches in length;

(d) A weapon made from a rifle such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;

(e) Any other weapon, as defined in this subpart;

(f) A machinegun;

(g) A muffler or a silencer for any firearm whether or not such firearm is included in this definition; and

(h) A destructive device.

The term shall not include an antique firearm or any device (other than a machinegun or destructive device) which, as designed as a weapon, the Director finds, on the date of its manufacture, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

For purpose of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the breech, or breechlock when closed and the shotgun or rifle is cocked.

The overall length of a weapon shall be measured from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center of the bore.

Fixed ammunition. That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

Frame or receiver. That part of a firearm which provides housing for the hammer or breechblock and firing mechanism which is usually threaded at its forward end to receive the barrel.

Importation. The bringing of a firearm into the limits of the United States territory under its control or jurisdiction from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with the intent to unlade.

Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a trade zone for storage pending shipment to a foreign country or subsequent importation into this country, under Title 26 of the United States Code, and this part, shall not be deemed importation.

Importer. Any person who is engaged in the business of importing or bringing a firearm into the United States.

Machinegun. Any weapon which is designed to shoot, or can be readily adapted to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall

On 4 August 1790, Congress authorized the construction of "ten boats" to enforce the customs laws of the new nation. The legislation, which was sponsored by Alexander Hamilton, the first Secretary of the Treasury, established the Revenue Marine

9 THE HISTORY & BACKGROUND OF MILITARY LAW

(the Revenue Cutter Service) under the direction of the Treasury Department. When President Wilson, on 28 January 1915, signed the act of Congress that created the Coast Guard, the Revenue Cutter Service was combined with the Life-Saving Service. The act also made the Coast Guard part of the military forces of the United States to operate under the Treasury Department in peacetime and to be transferred to the Department of the Navy either in time of war or when directed by the President. An act passed by Congress in 1936 stated that the Coast Guard "shall enforce or assist in the enforcement of all applicable Federal laws on or under the high seas and waters subject to the jurisdiction of the United States." Two reorganizations, in 1939 and 1942, resulted in the incorporation into the Coast Guard of the Light House Service and the Bureau of Marine Inspection. A congressional act of 15 October 1966 transferred the Coast Guard to the Department of Transportation as of 1 April 1967.

Coast Guard courts-martial were first provided for in an act of 26 May 1906. Their limited jurisdiction was somewhat expanded in 1920. On 4 August 1949, Congress enacted the Disciplinary Laws of the Coast Guard, which were patterned after the naval system of military justice.

110 The Uniform Code of Military Justice

When Congress was contemplating unification of the services, it appeared that the establishment of one basic military justice law applicable to all services was a step in that direction. In April of 1950, Congress passed the Uniform Code of Military Justice (hereinafter called the Code or UCMJ). This Code was based primarily on the Army's Articles of War, which had been amended in 1948 and had served to test many new concepts. The Code became law on 5 May 1950 and by 31 May 1951 was in full force and effect. Thereupon, naval law, Army law, Air Force law, and Coast Guard law, in effect died and in their places the Uniform Code of Military Justice, applicable to all the armed forces, was born.

111 The Military Justice Act of 1968

From 1951 to 1968, Congress amended the Code only once (in 1962). However, in 1968 Congress changed it significantly. The changes again reflected the application of civilian concepts of jurisprudence to the military. With these changes, military law appeared to be losing its identity as a separate body of law.

One of the changes was that, in any special court-martial, the accused must be offered the services of a lawyer qualified in the sense of Article 27(b) of the Code (hereinafter referred to as a certified military lawyer). A military judge must now be detailed to every special court-martial in which the accused might be awarded a bad conduct discharge, unless physical conditions or military exigencies prevent such detailing.

Indeed, the distinctions between a U.S. federal court and a special or general court-martial have been greatly lessened.

Today all the armed forces have the same basic statute known as the UCMJ,

§ 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to

REGULAR COAST GUARD

14 USCS § 89

the authority contained in this section, in enforcing any law of the United States shall:

- (1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and
- (2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

(Aug. 4, 1949, ch 393, § 1, 63 Stat. 502; Aug. 3, 1950, ch 536, § 1, 64 Stat. 406.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

This section is based on R. S. 2747, 2758, 2760, 2762; Act June 18, 1878, ch 265, § 4, 20 Stat. 163; June 16, 1880, ch 235, 21 Stat. 263; June 22, 1936, ch 705, §§ 1-3, 49 Stat. 1820; July 11, 1941, ch 290, § 7, 55 Stat. 585 (former 14 USCS §§ 45-47, 51, 52, 66, 67, 104 and former 33 USCS § 755).

The words "or such merchandise" are inserted in the last clause of subsec. (a) in order to provide for situations where it may be desirable to seize merchandise without seizing the vessel.

Amendments:

1950. Act Aug. 3, 1950, in the second sentence, deleted "to" which preceded "examine". 146

§ 143. Treasury Department

Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

(Aug. 4, 1949, ch 393, § 1, 63 Stat. 506.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Prior law and revision:**

This section is based on Act Aug. 5, 1935, ch 435, title II, § 201, 49 Stat. 521; Aug. 5, 1935, ch 438, title IV, § 401, 49 Stat. 529 (former 19 USCS §§ 1401(l), 1709(b)).

This section will not repeal the prior law sections, but makes further

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14 USCS § 143**COAST GUARD**

provision that Coast Guard personnel when acting as officers of the customs shall, insofar as enforcing customs laws are concerned, be subject to regulations governing regular officers of the customs.

INTERPRETIVE NOTES AND DECISIONS

Although Coast Guard officers often performed duties relating to customs laws, and customs officers include Coast Guard officers [19 USCS §§ 1401(i), 1709(b)], 14 USCS § 143 should not be read to impose limitations upon powers of Coast Guard when it boards American vessels beyond

12-mile limit. *United States v Warren* (1978, CA5 Fla) 578 F2d 1058, 4 Fed Rules Evid Serv 289, reh den, in part, en banc (1978, CA5 Fla) 586 F2d 608 and (ovrld in part on other grounds by *United States v Bengivenga* (1988, CA5 Tex) 845 F2d 593).

Vick: Before I contact him. Don't want to seem anxious and er . . .

Osborn: --

Vick: O.K. See you later.

DOUGLAS, J., dissenting

MR. JUSTICE DOUGLAS, dissenting in *Osborn v. United States* and *Lewis v. United States*, and concurring with MR. JUSTICE CLARK in *Hoffa v. United States*.

These cases present important questions of federal law concerning the privacy of our citizens and the breach of that privacy by government agents. *Lewis v. United States* involves the breach of the privacy of the home by a government agent posing in a different role for the purpose of obtaining evidence from the homeowner to convict him of a crime. *Hoffa v. United States* raises the question whether the Government in that case induced a friend of Hoffa's to insinuate himself into Hoffa's entourage, there to serve as the Government's eyes and ears for the purpose of obtaining incriminating evidence. *Osborn v. United States* presents the question whether the Government may compound the invasion of privacy by using hidden recording devices to record incriminating statements made by the unwary suspect to a secret federal agent. [385 U.S. 341]

Thus these federal cases present various aspects of the constitutional right of privacy. Privacy, though not expressly mentioned in the Constitution, is essential to the exercise of other rights guaranteed by it. As we recently said in *Griswold v. Connecticut*, 381 U.S. 479, 484:

[S]pecific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. . . . Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one. . . . The Third Amendment, in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner, is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment, in its Self-Incrimination Clause, enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

We are rapidly entering the age of no privacy, where everyone is open to surveillance at all times; where there are no secrets from government. The aggressive breaches of privacy by the Government increase by geometric proportions. Wiretapping and "bugging" run rampant, without effective judicial or legislative control.

Secret observation booths in government offices and closed television

circuits in industry, extending even to rest rooms, are common. {1} Offices, conference rooms, [385 U.S. 342] hotel rooms, and even bedrooms (*see Irvine v. California*, 347 U.S. 128) are "bugged" for the convenience of government. Peepholes in men's rooms are there to catch homosexuals. *See Smayda v. United States*, 352 F.2d 251. Personality tests seek to ferret out a man's innermost thoughts on family life, religion, racial attitudes, national origin, politics atheism, ideology, sex, and the like. {2} Federal agents are often "wired" so that their conversations are either recorded on their persons (*Iopez v. United States*, 373 U.S. 427) or transmitted to tape recorders some blocks away. {3} The Food and Drug Administration recently put a spy in a church organization. {4} Revenue agents have gone in the disguise of Coast Guard officers. {5} They have broken and entered homes to obtain evidence. {6}

Polygraph tests of government employees and of employees in industry are rampant. {7} The dossiers on all citizens mount in number and increase in size. Now they are being put on computers, so that, by pressing one button, all the miserable, the sick, the suspect, the unpopular, the off-beat people of the Nation can be instantly identified. {8} [385 U.S. 343]

These examples and many others demonstrate an alarming trend whereby the privacy and dignity of our citizens is being whittled away by sometimes imperceptible steps. Taken individually, each step may be of little consequence. But when viewed as a whole, there begins to emerge a society quite unlike any we have seen -- a society in which government may intrude into the secret regions of man's life at will.

We have here in the District of Columbia squads of officers who work the men's rooms in public buildings trying to get homosexuals to solicit them. *See Beard v. Stahr*, 200 F.Supp. 766, 768, *judgment vacated*, 370 U.S. 41. Undercover agents or "special employees" of narcotics divisions of city, state, and federal police actively solicit sales of narcotics. *See generally* 31 U.Chi.L.Rev. 137, 74 Yale L.J. 942. Police are instructed to pander to the weaknesses and craven motives of friends and acquaintances of suspects, in order to induce them to inform. *See generally* Harney & Cross, *The Informer in Law Enforcement* 33-44 (1960). In many cases, the crime has not yet been committed. The undercover agent may enter a suspect's home and make a search upon mere suspicion that a crime will be committed. He is indeed often the instigator of, and active participant in, the crime -- an *agent provocateur*. Of course, when the solicitation by the concealed government agent goes so far as to amount to entrapment, the prosecution fails. *Sorrells v. United States*, 287 U.S. 435; *Sherman v. United States*, 356 U.S. 369. But the "dirty business" (*Olmstead v. United States*, 277 U.S. 438, 470 (Mr. Justice Holmes dissenting)) does not begin or end with entrapment. Entrapment is merely a facet of a much broader problem. Together with illegal searches and seizures, coerced confessions, wiretapping, and bugging, it represents [385 U.S. 344] lawless invasion of privacy. It is indicative of a philosophy that the ends justify the means.

the correctness of any entry, for determining the liability of any person for duties and taxes due or which may be due, for determining liability for fines, penalties, and forfeitures, or for insuring compliance with the laws and regulations administered by Customs. It also contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. It also contains provisions for Customs enforcement of the controlled substances, narcotics and marijuana laws. Provisions relating to petitions for remission or mitigation of fines, penalties, and forfeitures incurred are contained in part 171 of this chapter.

(T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-159, 44 FR 31970, June 4, 1979)

Subpart A—Recordkeeping, Inspection, Examination, and Search

SOURCE: T.D. 79-159, 44 FR 31970, June 4, 1979, unless otherwise noted.

§ 162.1 [Reserved]

§ 162.1a Definitions.

When used in §§ 162.1a through 162.1i, the following terms shall have the meaning indicated:

(a) *Records*. "Records" means:

(1) Statements, declarations, books, papers, correspondence, accounts, technical data, automated record storage devices (e.g., magnetic discs and tapes), computer programs necessary to retrieve information in a usable form, and other documents which:

(i) Pertain to any importation, or to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the entry of merchandise;

(ii) Are of the type normally kept in the ordinary course of business; and

(iii) Are sufficiently detailed:

(A) To establish the right to make entry,

(B) To establish the correctness of any entry.

(C) To determine the liability of any person for duties and taxes due, or which may be due, the United States.

(D) To determine the liability of any person for fines, penalties, and forfeitures, and

(E) To determine whether the person has complied with the laws and regulations administered by the Customs Service; and

(2) Any other documents required under laws or regulations administered by the Customs Service.

(b) *Third-party recordkeeper*. "Third-party recordkeeper" means any Customs broker, attorney, or accountant.

(c) *Summons*. "Summons" means any summons issued under this subpart which requires either the production of records or the giving of testimony, or both.

(d) *Technical data*. "Technical data" includes records, diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, or other media.

§ 162.1b Recordkeeping.

(a) *Who must keep records*. Any owner, importer, consignee, or their agent who imports, or knowingly causes to be imported, any merchandise into the Customs territory of the United States, shall make and keep records as defined in § 162.1a(a).

(b) *Domestic transaction excluded*. A person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported and is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture

ture or production of the imported merchandise.

§ 162.1c Record retention period.

Unless a different period of time is provided elsewhere in the chapter with respect to a specific type of record, any record required or made under § 162.1b shall be kept for 5 years from the date of entry of the merchandise.

§ 162.1d Examination of records and witnesses.

(a) *Examination*. During the course of any inquiry or investigation initiated:

(1) To determine the correctness of any entry, the liability of any person for duties and taxes due or which may be due, or any liability for fines, penalties and forfeitures, or

(2) To insure compliance with the laws and regulations administered by the Customs Service, any Customs officer, during normal business hours and, to the extent possible, at a time mutually convenient to the parties, may examine, or cause to be examined, any relevant records, statements, declarations, or other documents by providing the person with reasonable notice, either orally or in writing, which describes the records with reasonable specificity.

(b) *Summons*. During the course of any inquiry or investigation initiated for the reasons set forth in paragraph (a) of this section, the Commissioner of Customs or his designee, but no designee of the Commissioner below the rank of district director (area director in region II) or special agent in charge, upon reasonable notice, may issue a summons to:

(1) Any person who imported merchandise, or knowingly caused merchandise to be imported,

(2) Any officer, employee, or agent of a person who imported merchandise or knowingly caused merchandise to be imported,

(3) Any person having possession, custody, or care of records relating to importations, or

(4) Any other person deemed proper to either produce records or give testimony, or both.

(c) *Transcript of testimony under oath*. Testimony of any person taken under paragraph (a) or (b) of this section may be taken under oath and when so taken shall be transcribed. When testimony is transcribed, a copy shall be made available on request to the witness unless for good cause shown the issuing officer determines under 5 U.S.C. 555 that a copy should not be provided. In that event, the witness shall be limited to inspection of the official transcript of the testimony. The testimony or transcript may be in the form of a written statement under oath provided by the person examined at the request of a Customs officer.

§ 162.1e Contents of summons.

(a) *Summons for person*. Any summons issued under § 162.1d(b) to compel appearance shall state:

(1) The name, title, and telephone number of the Customs officer before whom the appearance shall take place;

(2) The address where the person shall appear, not to exceed 100 miles from the place where the summons was served;

(3) The time of appearance; and

(4) The name, address, and telephone number of the Customs officer issuing the summons.

(b) *Summons of records*. If the summons requires the production of records, the summons, in addition to containing the information required by paragraph (a) of this section, shall describe the records with reasonable specificity.

§ 162.1f Service of summons.

(a) *Who may serve*. Any Customs officer is authorized to serve a summons issued under this part.

(b) *Method of service*—(1) *Natural person*. Service upon a natural person shall be made by personal delivery.

(2) *Corporation, partnership, or association*. Service shall be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivery to an officer, managing or general agent, or any other agent authorized to receive service of process.

(c) *Certificate of service.* On the hearing of an application for the enforcement of the summons, the certificate of service signed by the person serving the summons is prima facie evidence of the facts it states.

§ 162.1g Third-party recordkeeper.

(a) *Notice.* Except as provided by paragraph (f) of this section, if a summons issued under § 162.1d to a third-party recordkeeper requires the production of records or testimony relating to import transactions of any person other than the person summoned, and the person is identified in the description of the records in the summons, notice of the summons shall be provided the person identified in the description of the records contained in the summons.

(b) *Time of notice.* Notice of service of summons required by paragraph (a) of this section should be provided by the issuing officer immediately after service of summons is obtained under § 162.1f, but in no event shall notice be given less than 10 business days before the date set in the summons for the examination of records or persons.

(c) *Contents of notice.* The issuing officer shall insure that any notice issued under this section includes a copy of the summons and contains the following information:

(1) That compliance with the summons may be stayed if written direction is given by the person receiving notice to the person summoned not to comply with the summons.

(2) That a copy of the direction not to comply and a copy of the summons shall be mailed by registered or certified mail to the person summoned at the addresses in the summons and to the issuing Customs officer.

(3) That the actions under paragraphs (c)(1) and (c)(2) of this section shall be accomplished not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given.

(d) *Service of notice.* The issuing officer shall serve the notice required by paragraph (a) of this section in the same manner as is prescribed in § 162.1f for the service of a summons, or by certified or registered mail to

the last known address of the person entitled to notice.

(e) *Examination precluded.* If notice is required by this section, no records may be examined and no testimony may be taken before the date fixed in the summons as the date to examine the records or to take the testimony. If the owner, importer, consignee, or their agent, or any other person concerned issues a stay of the summons, no examination shall take place, and no testimony shall be taken, without the consent of the person staying compliance, or without an order issued by a U.S. district court.

(f) *Exceptions to notice—(1) Personal liability for duties and taxes.* This section does not apply to any summons served on the person, or any officer or employee of the person, with respect to whose liability for duties and taxes the summons is issued.

(2) *Verification.* This section does not apply to any summons issued to determine whether or not records of the import transactions of an identified person have been made or kept.

(3) *Court order.* Notice shall not be given if a U.S. district court determines, upon petition by the issuing Customs officer, that reasonable cause exists to believe giving notice may lead to an attempt:

(i) To conceal, destroy, or alter relevant records;

(ii) To prevent the communication of information from other persons through intimidation, bribery, or collusion; or

(iii) To flee to avoid prosecution, testifying, or production of records.

§ 162.1h Enforcement of summons.

Whenever any person does not comply with a summons issued under § 162.1d, the issuing officer may request the appropriate U.S. attorney to seek an order requiring compliance from the U.S. district court for the district in which the person is found or resides or is doing business.

§ 162.1i Failure to comply with court order.

(a) *Importations prohibited.* If a person fails to comply with a court order enforcing the summons and is

adjudged guilty of contempt, the Commissioner of Customs, with the approval of the Secretary of the Treasury, for so long as that person remains in contempt,

(1) May prohibit importation of merchandise by that person, directly or indirectly, or for that person's account, and

(2) May withhold delivery of merchandise imported by that person, directly, or indirectly, or for that person's account.

(b) *Sale of merchandise.* If any person remains in contempt for more than 1 year after the Commissioner issues instructions to withhold delivery, the merchandise shall be considered abandoned, and shall be sold at public auction or otherwise disposed of in accordance with subpart E of this part.

§ 162.2 [Reserved]

§ 162.3 Boarding and search of vessels.

(a) *General authority.* A Customs officer, for the purpose of examining the manifest and other documents and papers and examining, inspecting and searching the vessel, may at any time go on board:

(1) Any vessel at any place in the United States or within the Customs waters of the United States;

(2) Any American vessel on the high seas;

(3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703 through 1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

(b) *Search of army or navy vessel.* If the district director or special agent in charge believes that sufficient grounds exist to justify a search of any army or navy vessel, the facts shall be reported to the commanding officer or master of the vessel with a request that he cause a full search to be made, and advise the district director or special agent in charge of the result of

such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the district director or special agent in charge believes that sufficient grounds exist to justify the continuance of Customs supervision of the vessel, the commanding officer or master of the vessel shall be advised accordingly.

(c) *Assistance of other agencies.* Customs officers are authorized to assist any other agency in the enforcement of United States laws on any vessel.

[T.D. 84-18, 48 FR 52899, Nov. 23, 1983]

§ 162.4 Search for letters.

A Customs officer may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to the orders of the postal authorities.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972]

§ 162.5 Search of arriving vehicles and aircraft.

A customs officer may stop any vehicle and board any aircraft arriving in the United States from a foreign country for the purpose of examining the manifest and other documents and papers and examining, inspecting, and searching the vehicle or aircraft.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990]

§ 162.6 Search of persons, baggage, and merchandise.

All persons, baggage, and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection and search by a Customs officer. District directors and special agents in charge are authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended (19 U.S.C. 1467), of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the

§ 162.7

vessel at another port or place in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

(T.D. 72-211, 37 FR 16488, Aug. 15, 1972)

§ 162.7 Search of vehicles, persons, or beasts.

A Customs officer may stop, search, and examine any vehicle, person, or beast, or search any trunk or envelope wherever found, in accordance with section 3061 of the Revised Statutes (19 U.S.C. 482).

(T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990)

§ 162.8 Preclearance inspections and examinations.

In connection with inspections and examinations conducted in accordance with § 148.22(a) of this chapter, United States Customs officers stationed in a foreign country may exercise such functions and perform such duties (including inspections, examinations, searches, seizures, and arrests), as may be permitted by treaty, agreement, or law of the country in which they are stationed.

(T.D. 89-22, 54 FR 5077, Feb. 1, 1989)

Subpart B—Search Warrants

§ 162.11 Authority to procure warrants.

Customs officers are authorized to procure search warrants under the provisions of section 595, Tariff Act of 1930, as amended (19 U.S.C. 1595). However, a Customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may seize such merchandise without a warrant. If merchandise is in a building on the boundary, see § 123.71 of this chapter.

§ 162.12 Service of search warrant.

A search warrant shall be served in person by the officer to whom it is issued and addressed. In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the prem-

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the copy shall be left in some conspicuous place on the premises searched.

§ 162.13 Search of rooms not described in warrant.

When a Customs officer is acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

§ 162.14 Removal of letters and other documents.

Customs officers to whom a warrant is issued to search for and seize merchandise are without authority to remove letters and other documents and records, unless they themselves are instruments of crime and are seized as an incident to a lawful arrest.

§ 162.15 Receipt for seized property.

A receipt for property seized under a search warrant shall be left with the person in charge or possession of the premises, or in the absence of any person, the receipt shall be left in some conspicuous place on the premises searched.

Subpart C—Seizures

§ 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Property may be seized, if available, by any Customs officer who has reasonable cause to believe that any law or regulation enforced by the Customs Service has been violated, by reason of which the property has become subject to seizure or forfeiture. This paragraph does not authorize seizure when seizure or forfeiture is restricted by law or regulation (see, for example, § 162.75), nor does it authorize a remedy other than seizure when seizure or forfeiture is required by law or regulation. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized.

(b) *Seizure by persons other than Customs officers.* The district director

United States Customs Service, Treasury

other than a Customs officer if such district director has reasonable cause to believe that the property is subject to forfeiture under the Customs laws.

(c) *Seizure by State official.* If a duly constituted State official has seized any merchandise, vessel, aircraft, vehicle, or other conveyance under provisions of the statutes of such State, such property shall not be seized by a Customs officer unless the property is voluntarily turned over to him to be proceeded against under the Federal statutes.

(T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-160, 44 FR 31956, June 4, 1979)

§ 162.22 Seizure of conveyances.

(a) *General applicability.* If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of any law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, the officer shall seize such conveyance and arrest any person engaged in such violation. Common carriers are exempted from seizure except under certain specified conditions as provided for in section 594, Tariff Act of 1930 (19 U.S.C. 1594).

(b) *Facilitating importation contrary to law.* Except as provided in § 171.52(b), every vessel, vehicle, animal, aircraft, or other thing, which is being or has been used in, or to aid or facilitate, the importation, bringing in, unloading, landing, removal, concealing, harboring or subsequent transportation of any article which is being, or has been introduced or attempted to be introduced into the United States contrary to law, shall be seized and held subject to forfeiture. Any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) *Common carrier clearance.* Unless specifically authorized by law, clearance of vessels within the

§ 162.31

594, Tariff Act of 1930 (19 U.S.C. 1594), shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) *Retention of vessel or vehicle pending penalty payment.* If a penalty is incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the district director under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.

(e) *Maritime Administration vessels; exemption from penalty.* (1) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the Customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(2) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment.

(T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 89-86, 54 FR 37602, Sept. 11, 1989)

Subpart D—Procedure When Fine, Penalty, or Forfeiture Incurred

§ 162.31 Notice of fine, penalty, or forfeiture incurred.

(a) *Notice.* Written notice of any fine or penalty incurred as well as any liability to forfeiture shall be given to each party that the facts of record indicate has an interest in the claim or seized property. The notice shall also inform each interested party of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), or any other applicable statute authorizing mitigation of penalties or remission of forfeitures. In ac-

“CID”

The Criminal Investigative Division

Internal Revenue Manual 1100

Section 1132.75

Criminal Investigative Division

“The Criminal Investigative Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws involving United States citizens residing in foreign countries and non-resident aliens subject to federal income tax filing requirements.”

Where in the USC, CFR's or the United States Statutes at Large does it state that the CID can investigate citizens **NOT** “residing in foreign countries”, but living and working in the United States?

If CID cannot show authority over citizens NOT residing in foreign countries, then they can only be clearly exceeding the limited authority defined under the USC and therefore operating unlawfully. We can only conclude, after a careful study and understanding of what has been made available to us through the USC and related IRM's that, “CID has no legal authority over the domestic affairs and activities of citizens”.

IF you have documented proof to the contrary, please send it to us immediately!

You can get your copy of IRM 1100 by contacting:

VIP, Box 463, Owensville, Ohio 45160 (513)641-2221

FREEDOM OF INFORMATION REQUEST

TO:

Disclosure Officer/District Director or CEO
RE: MRS. P. ACKLEY - REVENUE Agent
Department of Treasury
Internal Revenue Service
810 FRONT ST
WASHINGTON, DC

FROM:

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 requester." 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 provide me with an indexing, itemization and detailed justification concerning information which you are not releasing.
4. Requester is in need of the following information to ascertain if claimed Agent MRS. P. ACKLEY 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 MRS. P. ACKLEY's first employment with the Department of Treasury/IRS to the present year _____.
7. Please send me copies of the following documents as they pertain to MRS. P. ;ACKLEY personally, and or in his/her title role of REVENUE Agent, 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 titles and occupational service of Agent MRS. P. ACKLEY.
 - b. All document(s) that include, identify, and describe the past and present grades of Agent MRS. P. ACKLEY.
 - c. All document(s) that include, identify, and describe the past and present annual salary, including performance bonuses, incentive awards, merit pay amount, Meritorious and Distinguished Executive Ranks, and allowances and differentials of Agent MRS. P. ACKLEY.
 - 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 MRS. P. ACKLEY).
 - e. All document(s) that include, identify, and describe Agent P. ACKLEY's 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 P. ACKLEY's specific "G.S. number," the meaning of the abbreviation "G.S." and a description an explanation of the numbering system used for "G.S." classification.
 - g. The specific document(s) of appointment for Agent MRS. P. ACKLEY to assert the title of "REVENUE Agent."

4. The specific "delegation of authority" documents issued and applicable to Agent
MRS P. ACKLEY 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 P. ACKLEY as
REVENUE AGENT
 - j. Copies of any documents that exempt Agent P. ACKLEY, or his/her division, from
coming within the purview of the Freedom of Information Act, Privacy Act, and Administrative
Procedures Act.

Dated: _____

S/ _____
Requester

Dear _____,

(Revenue Officer)
(Revenue Agent)

It appears to me that (Special agent CID) _____ is in violation of the Internal Revenue Code at 26 USC section 6103 and of the federal regulations at 26 CFR section 301.6103 and could be liable for damages under 26 USC section 7431.

Section 1203 of the Restructuring and Reform Act of 1998 states that violations of the Internal Revenue Code of 1986, Department of Treasury regulations, policies of the Internal Revenue Service (including the Internal Revenue Manuals), or violations of any right under the constitution of the United States or various civil rights violations should be grounds for dismissal for the IRS employees. They must be charged with misconduct and terminated if there has been a judicial or final administrative determination that the employee committed any of these, and (or) other acts or omissions. In the event of an unauthorized disclosure, there will be a formal request that the agent responsible be administratively sanctioned according to section 1203 of the Restructuring and Reform Act of 1998. *See Exhibit A*

A violation of the Internal Revenue Code at 26 USC Section 6103 and of the CFR at section 301.6103 would make the said Agent liable for damages under 26 USC section 7431.

This has recently been upheld in Federal Court, Case Number 99-8065, in the state of Florida, resulting in a \$126,000 judgment against the IRS.

I suspect that the said Agent violated the Restructuring and Reform Act of 1998 in dealing with me.

Please send me the necessary paperwork to file a formal complaint so that I can list my grievance along with any helpful information in this area.

Respectfully Yours,

H.R.2676

One Hundred Fifth Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,
the twenty-seventh day of January, one thousand nine hundred and
ninety-

eight

An Act

To amend the Internal Revenue Code of 1986 to restructure and
reform the

Internal Revenue Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of
the
United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF
ESTIMATED TAX

PENALTIES; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Internal
Revenue
Service Restructuring and Reform Act of 1998''.

(b) Amendment of 1986 Code.--Except as otherwise expressly
provided, whenever in this Act an amendment or repeal is expressed
in
terms of an amendment to, or repeal of, a section or other
provision,
the reference shall be considered to be made to a section or other
provision of the Internal Revenue Code of 1986.

(c) Waiver of Estimated Tax Penalties.--No addition to tax
shall be
made under section 6654 or 6655 of the Internal Revenue Code of
1986
with respect to any underpayment of an installment required to be
paid
on or before the 30th day after the date of the enactment of this
Act
to the extent such underpayment was created or increased by any
provision of this Act.

(d) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax penalties; table of contents.

TITLE I--REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE
INTERNAL REVENUE SERVICE

Subtitle A--Reorganization of the Internal Revenue Service

Sec.1001.Reorganization of the Internal Revenue Service.
Sec.1002.Internal Revenue Service mission to focus on taxpayers' needs.

Subtitle B--Executive Branch Governance and Senior Management

Sec.1101.Internal Revenue Service Oversight Board.
Sec.1102.Commissioner of Internal Revenue; other officials.
Sec.1103.Treasury Inspector General for Tax Administration.
Sec.1104.Other personnel.
Sec.1105.Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C--Personnel Flexibilities

Sec.1201.Improvements in personnel flexibilities.
Sec.1202.Voluntary separation incentive payments.
Sec.1203.Termination of employment for misconduct.
Sec.1204.Basis for evaluation of Internal Revenue Service employees.
Sec.1205.Employee training program.

TITLE II--ELECTRONIC FILING

Sec.2001.Electronic filing of tax and information returns.
Sec.2002.Due date for certain information returns.
Sec.2003.Paperless electronic filing.
Sec.2004.Return-free tax system.
Sec.2005.Access to account information.

TITLE III--TAXPAYER PROTECTION AND RIGHTS

Sec.3000.Short title.

Subtitle A--Burden of Proof

Sec.3001.Burden of proof.

Subtitle B--Proceedings by Taxpayers

Sec.3101.Expansion of authority to award costs and certain fees.

United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) Effect on Internal Revenue Service Employment Levels.--

(1) Intended effect.--Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) Use of voluntary separations.--The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) In General.--Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) Acts or Omissions.--The acts or omissions referred to under subsection (a) are--

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of--

(A) any right under the Constitution of the United States;

or

(B) any civil right established under--

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

→ (6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing

information from a congressional inquiry;

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) Determination of Commissioner.--

(1) In general.--The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) Discretion.--The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) No appeal.--Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) Definition.--For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b) (3) (B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.--The Internal Revenue Service shall not use records of tax enforcement results--

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) Taxpayer Service.--The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) Certification.--Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

(d) Technical and Conforming Amendment.--Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law ~~100-647~~, 102 Stat. 3734) is repealed.

(e) Effective Date.--This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) In General.--Not later than 180 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
EASTERN DIVISION

UNITED COMPANIES)	
INSURANCE COMPANY)	
)	No. C2-96-
Plaintiff,)	
-v-)	VERIFIED NOTICE OF CLAIM
)	
et al.,)	
)	
Defendants.)	
)	

 COMES NOW _____, pursuant to Rule C(6) of the
 supplement Rules for Certain Admiralty and Maritime Claims,
 28 U.S.C. Supp. Rule C(6), and specifically Federal Tax
 Liens under the Uniform Commercial Code according to the
 Federal Tax Lien Act of 1966 (P.L. 89 719 pg. 1316, H.R.
 11256, Senate Report No. 1708), states as follows:

1. That I am the same _____ listed on the
 enclosed copy of the CERTIFICATE OF DISCLOSURE for purchase
 of a SINGLE PREMIUM DEFERRED ANNUITY CONTRACT with United
 Companies Life Insurance Company, and that I am authorized
 to make this Notice of Claim pursuant to Rule C(6) of the
 supplement Rules for Certain Admiralty and Maritime Claims,
 28 U.S.C. Supp. Rule C(6), and, specifically Federal Tax
 Liens under the Uniform Commercial Code according to the
 Federal Tax Lien Act of 1966 (P.L.89 719 pg. 1316, H.R.
 11256, Senate Report No. 1708) on behalf of myself.
2. That my principal place of abode is _____.
3. That with respect to the property which is the
 subject matter of this litigation, I, _____, am the

1 of four pages
3-Exhibits attached

sole owner of the CERTIFICATE OF DISCLOSURE representing Contract No. 310000000 thereof.

4. That on December 28, 1992, [redacted] submitted a APPLICATION to purchase a SINGLE PREMIUM DEFERRED ANNUITY CONTRACT with United Companies Insurance Company, from [redacted], Agent for [redacted] IC. A copy of the Receipt for the purchase of said product, representing Contract No. [redacted], in the amount of \$24,000 dollars, is attached hereto.

5. That on or about July 19, 1996, the Internal Revenue Service, by and through its Agent, George J. [redacted], sent a NOTICE OF LEVY to [redacted], attaching said LEVY to Annuity Contract, No. [redacted], which is the subject of this Verified Claim.

6. That at no time has [redacted] utilized the property in which she claims total interest purported by the UNITED STATES to be in violation of law, and further states that the funds deposited were to be deposited in a Deferred Annuity fund with the United Companies Insurance Company, and further states that the funds utilized to purchase the Annuity are not from any illegal source or illegal earnings, but instead are from income generated by lawful employment and life savings. WHEREFORE, in view of the good faith and lawful interest of [redacted] in the Deferred Annuity Contract, this CLAIM is being filed to contest the forfeiture of said Annuity in UNITED STATES DISTRICT COURT and the Claimant

respectfully requests that said cash be returned immediately, that she be awarded all attorneys fees, and such other relief as this Honorable Court deems proper and just.

Respectfully submitted,

c/o

non-domestic

WHEREFORE, in view of the foregoing, the Petitioner/Claimant respectfully requests that the \$30,000.00+ currently being held by this Court be returned forthwith.

Respectfully submitted,

I, _____, hereby affirm under penalty of perjury that I have read the foregoing Petition for return of my \$30,000.00+, and all attorney fees, and that all representations contained therein are true to the best of my knowledge and belief.

VERIFICATION

I declare under penalty of perjury that I am the authorized person to make Petition on behalf of said Claimant.

Petitioner/Claimant

CERTIFICATE OF SERVICE

I, _____, the Claimant/Petitioner herein, certify that I have mailed a copy of the foregoing Petition for return of \$30,000.00+, plus an additional amount to cover all attorneys fees, postage prepaid, to _____, Trial Attorney, Tax Division, U.S. Department of Justice, Post Office Box 55, Ben Franklin Station, Washington D.C. 20044, on this _____ day of January, 1997.

4 of four pages
3-Exhibits attached

FREEDOM OF INFORMATION ACT REQUEST

Local Disclosure Officer
Internal Revenue Service

YOUR NAME
YOUR ADDRESS

(local address)

Federal Identification #: _____

(and)

Freedom of Information and Privacy Act Unit, Tax Division
U.S. Department of Justice
Attn: Ms. Ruby McCoy
PO Box 227, Ben Franklin Sta.
Washington D.C. 20044

Dear Officer:

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).

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.

I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.

This request pertains to the years: _____

1. Please send me a copy of the Form 9131; Request for Grand Jury Investigation.

Dated:

Respectfully,

Requester

I understand the penalties provided in 5 USC 552a(i) (3) for requesting or obtaining access to records under false pretenses.

Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

Exhibit 9260-3

Form 9131

Request for Grand Jury Investigation

1. Reg. control number	2. Date prepared 4/21/89	3. District Chicago
4. In reference to		5. Type of request
Name I. M. Bell		
Case number 36870013A		
Address 1234 Elm Street Anytown, Illinois 60666		
SSN/EIN 382-28-3702		<input type="checkbox"/> a. Service initiated <input type="checkbox"/> b. Government attorney <input type="checkbox"/> c. OCDEF <input type="checkbox"/> d. Target expansion

6. a. Is there currently an ongoing Grand Jury investigation? yes no
- b. If yes, does this request include Grand Jury material? yes no

If yes, assure that the U.S. Attorney's request for our participation includes authorization to disclose information to Service officials.

If no, assure that U.S. Attorney's request states that no Grand Jury information was reviewed.

7. a. Law enforcement agencies participating

U.S. Customs, Drug Enforcement Agency

b. Probable non-tax criminal charges

21 USC 963, Conspiracy to import marijuana
18 USC 545, Smuggling

8. Reasons for IRS participation and deterrent effect of anticipated case(s) (Include justification for the need of a Grand Jury)

Narrative should explain facts of case to justify IRS participation, and need for Grand Jury investigation.

9. a. Contemplated IRS charge(s)

26 USC 7201 Evasion

b. Tax periods to be investigated

1986, 1987, 1988

Exhibit 9260-3 Cont. (1)

Form 9131

10. a. Letter from U.S. Attorney	Exhibit number 1
b. Separate summary of Grand Jury facts	Exhibit number 2
c. Summary of returns and return information	Exhibit number 3
d. Summary of financial and other relevant information	Exhibit number 4
e. Copies of tax returns at issue	Exhibit number 5
11. Grand Jury access list	Exhibit number 6

12. a. Does this request include out of region targets? yes no
- b. If yes, identify regions and districts *Western Region, Laguna Niguel District*
- c. Target expansions and OCDTEF requests (was out of region concurrence received?) yes no
- d. (For regional use only) Out of region concurrence received? yes no

13. If Service initiated, also include
- a. Progress of the administrative investigation to date
- b. Brief summary of administrative summonses issued
- c. Status of any civil action by examination, collection, etc.
- d. Additional evidence or testimony to be sought through the Grand Jury
- Exhibit _____

Special agent *John Smith* Date *4/21/89*

14. Reviewing officials (If this request is approved, necessary staffing will be made available) Telephone Date

Group manager, CID Concurrence <i>Susan Jones</i>	FTS 886-XXXX	4/25/89
Chief, CID Concurrence <i>Ben Black</i>	FTS 886-XXXX	4/28/89
District Director Concurrence/approval <i>A.P. Cole</i>	FTS 886-XXXX	5/3/89
ARC-CI Concurrence <i>W.J. Little</i>	FTS 886-XXXX	5/11/89

Note:
Target expansion requests on existing Title 28 Grand Juries are forwarded from the District Director to Regional Counsel.
All OCDTEF requests are forwarded from the District Director to the U.S. Attorney.
Investigations including Title 31 on Financial Institutions or officers, need AC:CI approval (IRM 9781-563.2(5)).

- Approved for forwarding to Regional Counsel
- Disapproved

Regional Commissioner _____ Date _____

No 477ac

OFFICE OF CHIEF COUNSEL
INTERNAL REVENUE SERVICE

REGIONAL COUNSEL
Midstates Region
4050 Alpha Road, 14th Floor
Dallas, Texas 75244-4203
972-308-7350
FAX 972-308-7272

FEB 04 1997

CC:MSR:STX:AUS:GJ:CT-700622-97
CEKnechtel

Honorable Loretta C. Argrett
Assistant Attorney General
Tax Division
Tenth and Pennsylvania Avenue, NW
Department of Justice
Washington, D.C. 20530


Attention: 
Southern Criminal Enforcement Section

Dear Ms. Argrett:

Re: IRS GENERATED REQUEST FOR GRAND JURY INVESTIGATION
Investigation - 9721246
W.D. Texas
D.J. Number: To be assigned
Involving: #1

SSN: _____

This matter is referred to you with the recommendation 


A duly approved Request for Grand Jury Investigation (Form 9131) initiated by the Criminal Investigation Division (CID), South Texas District, Austin, was received in this office on January 27, 1997.

_____ is a chiropractor who graduated from Texas Chiropractic College in Pasadena, Texas, in 1986. He owned and operated several Chiropractic Clinics in the Ferrville, Texas, area from 1991 through 1994, including Allied Therapy and Diagnostic; Chiropractic Clinic; Associated Health Practitioners; and Progressive Health. _____ is currently employed by _____ United Chiropractic which is located in _____

NEW
FEB 11 1997
FBI - AUSTIN
C. ACELES

5 - 2749

7.597

COURT CAPTION

Whoever
Vs.
You

CASE

MOTION TO QUASH
INDICTMENT

1. The indictment in its two counts fails to plead sufficient facts so as to bring the matters alleged within the law and to inform this Accused with sufficient particularity as to the precise charges attempted to be made against him.
2. The indictment in its two counts contains mere conclusions and does plead facts.
3. The indictment in its two counts is vague, indefinite and uncertain and does not allege sufficient facts or circumstances tending to identify the particular offenses attempted to be charged.
4. The indictment does not state if the alleged offenses are in violation of the "Income Tax Laws" or the "Internal Revenue Laws" of the United States.
5. The indictment in its two counts does not charge the commission of any crime against the laws of the United States and fails to set forth properly and with the requisite definiteness and particularity all of the essential elements of the crimes attempted to be charged.
6. Counts I and II of the indictment fails to state the particular act or acts charged with reasonable definiteness so as to enable the Accused to prepare his defense, and said indictment is so vague, indefinite and uncertain that it does not inform the Accused of the nature or cause of the accusation made against him and, in the foregoing respects, does not comply with the Fifth and Sixth Amendments to the Constitution of the United States.
7. Counts I and II of the indictment do not contain a plain, concise and definite written statement of the essential facts constituting the offense charged and, therefore does not comply with Rule 7(c)(1) of the Federal Rules of Criminal Procedure.
8. Counts I and II of the indictment do not allege facts constituting every essential element of the crime charged.
9. Counts I and II of the indictment fail to allege a specific intent.
10. THIS IS WHERE YOU NOW INCLUDE ANY SPECIFIC ITEMS OF FACT THAT YOU WISH TO ADD AND ASSIGN EACH NEW ITEM A NEW NUMBER ATTACHING ANY EXHIBITS THAT SPECIFICALLY PROVE YOUR STATEMENTS.

Because of the scope and importance of this motion, Accused request that a date be fixed to hear oral arguments and that notice of the time, place and date of such oral argument be given within a reasonable time prior thereto.

Wherefore, the Accused respectfully prays that Counts I and II of the indictment be "Quashed".
Remember to attach a certificate of service to this and any motion you file.

SUPPRESSION OF EVIDENCE

Motion to Suppress Evidence—General Grounds
—Federal¹

[Caption]

NOW COMES the Defendant, _____, by his attorney, and respectfully moves this Honorable Court to suppress all things seized pursuant to a search warrant covering the following described premises: _____, and more particularly, any [specify contraband found therein, as a result of any search made pursuant to the warrant issued on [date] by _____, or on any other pretext or authority upon the following grounds:

1. The affidavit upon which the search warrant issued was insufficient as a matter of law.

2. The issuing Judge incorrectly found probable cause for the issuance of the warrant in the affidavit.

3. The affidavit did not contain facts sufficient as a matter of law to establish probable cause.

4. The search warrant was invalid and improperly issued.

5. The affidavit does not show or attempt to show any relationship between the premises and the objects seized.

6. The search of the premises pursuant to the warrant and the issuance of the warrant violated the Defendant's rights under the Fourth Amendment to the United States Constitution and Rule 41 of the Federal Rules of Criminal Procedure.

7. Statements in the affidavit relating to the premises in which the

objects were found are mere conclusions based upon suspicions, with the grounds for suspicion left unstated.

WHEREFORE, the Defendant respectfully moves this Honorable Court for an order suppressing from use as evidence against the Defendant in this or any other proceeding the evidence seized pursuant to the search warrant dated _____.

Respectfully submitted,

Dated: _____

[Signature]

[Name of Attorney]

Attorney for Defendant

1. See:

Illinois v Gates (1983) 462 US 213, 76 L Ed 2d 527, 103 S Ct 2317, reh den 463 US 1237, 77 L Ed 2d 1453, 104 S Ct 33 (affidavit reviewed as to whether, given all the circumstances set forth therein, including veracity and basis of knowledge, there is fair probability that contraband or evidence will be found in particular place); *Weeks v United States* (1918) 245 US 618, 62 L Ed 513, 38 S Ct 219 (evidence obtained by unconstitutional search and seizure inadmissible in federal court).

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
SEP 1 1996

UNITED STATES OF AMERICA,

v.

CR-1-96
JUDGE WEBER

KENNETH A. MORPHY, CLERK
CINCINNATI, OHIO

ET AL.

→ GOVERNMENT'S RESPONSE TO DEFENDANT
MOTION FOR A BILL OF PARTICULARS ←

Defendant has requested a bill of particulars pursuant to Federal Rule of Criminal Procedure 7(f). For the following reasons, Government requests that the court deny the Motion.

On June 19, 1996, a grand jury returned an indictment charging defendant with conspiring to impede and impair the lawful functions of the Internal Revenue Service in violation of 18 U.S.C. Section 371. The conspiracy charge covers 15 pages and described 96 overt acts. The vast majority of the overt acts contain descriptions that includes dates.

The purposes of a bill of particulars are: (1) to insure that a defendant understands the nature of the charges against him so he can adequately prepare for trial, (2) to avoid or minimize the danger of unfair surprise at trial, and (3) to enable the defendant to plead double jeopardy if he is later charged with the same crime. United States v. Birnley, 529 F.2d 103, 108 (6th Cir. 1976). See also United States v. Salisbury, 983 F.2d 1369, 1375 (6th Cir. 1993) (the purpose of a bill of particulars is to provide the defendant with the necessary

details of the charges against him and permit him to prepare a defense and protect from double jeopardy); United States v. Haskins, 345 F.2d 111, 114 (6th Cir. 1955).

A prerequisite to finding that a bill of particulars is warranted is a determination that the indictment alone is insufficient to inform a defendant of the nature of the charges. Unless the information sought through a bill of particulars would define more specifically the offense charged, a motion requesting such information should be denied. United States v. Largent, 545 F.2d 1039, 1043-44 (6th Cir. 1977), cert. denied, 429 U.S. 1098 (1977). Defendant has not identified any deficiency in the indictment.

Defendant has been offered access to all of the discovery required by Federal Rule of Criminal Procedure 16. Prior to the filing of the motion for a bill of particulars, defendant did not request any of the discovery offered by the Government. (Exhibits A and B).¹ A court should deny a motion for a bill of particulars where the defendant is actually seeking discovery. United States v. Largent, 545 F.2d 1039 (6th Cir. 1977), cert. denied, 429 U.S. 1098 (1977).

The discovery includes all of the exhibits intended to be introduced by the Government in its case in chief, which consists primarily of third party records. Full discovery eliminates the

¹ Counsel for defendant, Richard J. has scheduled a discovery meeting for September 12, 1996.

need for a bill of particulars. United States v. Giese, 597 F.2d 1170, 1180 (9th Cir. 1979); United States v. Society of Independent Gasoline Marketers, 624 F.2d 461 (4th Cir. 1979), cert. denied, 449 U.S. 1078 (1981).

The Government submits that a bill of particulars is not a discovery device. United States v. Davis, 582 F.2d 947, 951 (5th Cir. 1978), cert. denied, 441 U.S. 962 (1979). It should not be used to obtain a detailed disclosure of the Government's evidence prior to trial, United States v. Kilrain, 566 F.2d 979, 985 (5th Cir.), cert. denied, 439 U.S. 819 (1978), or to unduly restrict the Government's subsequent proof at trial. United States v. Deaton, 448 F. Supp. 532, 537 (N.D. Ohio 1978).

The Government intends to comply fully with all appropriate discovery requirements. Defendant, however, should not be permitted to avoid the requirements of proper discovery procedures by resort to a bill of particulars.

The indictment adequately sets forth the elements of the charges against defendant Because the indictment apprises defendant of the facts constituting the charged offenses (with a great deal of detail), a bill of particulars is unwarranted and unnecessary.

In United States v. Ayers, 924 F.2d 1468, 1483 (9th Cir. 1991), the Court held that a conspiracy indictment detailing five separate means and methods and 15 overt acts adequately described the conspiracy. The Ayers Court also noted the substantial amount of discovery provided by the Government. The Ayers Court

concluded that the facts of that indictment, with a much less detailed indictment than the one charging defendant . . . , was sufficient to avoid surprise and plead double jeopardy in a subsequent proceeding. *Id.* at 1484.

For the previously stated reasons, the Government requests that the court deny defendant . . . request for a Bill of Particulars.

Respectfully submitted,

DALE ANN GOLDBERG
United States Attorney



DANA J. BOENTE
Trial Attorney

Title 26	Description	Location of Enforcement Regulations
6020	Returns prepared for or executed by Secretary	27 CFR Parts 53, 70
6201	Assessment authority	27 CFR Part 70
6203	Method of assessment	27 CFR Part 70
6212	Notice of deficiency	No Regulation
6213	Restrictions applicable to; deficiencies, petition to Tax Court	No Regulation
6214	Determinations by Tax Court	No Regulation
6215	Assessment of deficiency found by Tax Court	No Regulation
6301	Collection authority	27 CFR Parts 24, 25, 53, 250, 270, 275
6303	Notice and demand for tax	27 CFR Parts 53, 70
6321	Lien for taxes	27 CFR Part 70
6331	Levy and distraint	27 CFR Part 70
6332	Surrender of property subject to levy	27 CFR Part 70
6420	Gasoline used on farms	No Regulation
6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 CFR Part 70, 170, 194, 296
6651	Failure to file tax return or to pay tax	27 CFR Parts 24, 25, 70, 194
6671	Rules for application of assessable penalties	27 CFR Part 70
6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 CFR Part 70
6701	Penalties for adding and abetting understatement of tax liability	27 CFR Part 70
6861	Jeopardy assessments of income, estate, and gift taxes	No Regulation
6902	Provisions of special application to transferees	No Regulation
7201	Attempt to evade or defeat tax	No Regulation
7203	Willful failure to file return, supply information, or pay tax	No Regulation
7206	Fraud and false statements	No Regulation
7207	Fraudulent returns, statements and other documents	27 CFR Part 70
7210	Failure to obey summons	No Regulation
7212	Attempts to interfere with administration of internal revenue laws	27 CFR Parts 170, 270, 275, 290, 295, 296
7342	Penalty for refusal to permit entry, or examination	27 CFR Parts 24, 25, 170, 270, 275, 290, 295, 296
7343	Definition of term "person"	No Regulation
7344	Extended application of penalties relating to officers of Treasury Department	No Regulation
7401	Authorization (judicial proceedings)	27 CFR Part 70
7402	Jurisdiction of district courts	No Regulation
7403	Action to enforce lien or to subject property to payment of tax	27 CFR Part 70
7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulation
7601	Canvass of districts for taxable persons and objects	27 CFR Part 70
7602	Examination of books and witnesses	27 CFR Parts 70, 170, 296
7603	Service of summons	27 CFR Part 70
7604	Enforcement of summons	27 CFR Part 70
7605	Time and place of examination	27 CFR Part 70
7608	Authority of internal revenue enforcement officers	27 CFR Parts 70, 170, 296

Title 18 USC Criminal Investigations Enforcement Regulations

Title 18 USC	Description	Location of Enforcement Regulations
§2	Principals	No Regulations
§3	Accessory after the Fact	No Regulations
§4	Misprison of Felony	No Regulations
§101	Assaulting, Resisting, Impeding Certain Officers and Employees	No Regulations
§201	Bribery of Public Officials and Witnesses	No Regulations
§285	Taking or Using Papers Relating to Claims	No Regulations
§286	Conspiracy to Defraud the Government with Respect to Claims	No Regulations
§287	False, Fictitious or Fraudulent Claims	No Regulations
§371	Conspiracy to Commit Offense or to Defraud United States	No Regulations
§372	Conspiracy to Impede or Injure Officer	No Regulations
§494	Contractor's Bonds, Bids, and Public Records	No Regulations
§495	Contracts, Deeds, and Powers of Attorney	No Regulations
§611	Public Money , Property or Records	12 CFR Part 1 13 CFR Part 300 49 CFR Part 801
§1001	Statements or Entries Generally	7 CFR Part 1443 32 CFR Part 525
§1002	Possession of False Papers to Defraud United States	No Regulations
§1073	Flight to Avoid Prosecution or Giving Testimony	No Regulations
§1114	Protection of Officers and Employees of the United States	28 CFR Part 61
§1501	Assault on Process Server	No Regulations
§1503	Influencing or Injuring Officer, Juror or Witness Generally	No Regulations
§1510	Obstruction of Criminal Investigations	No Regulations
§1621	Perjury Generally	No Regulations
§1622	Subordination of Perjury	No Regulations
§1623	False Declarations Before Grand Jury or Court	No Regulations
§1955	Prohibition of Illegal Gambling Businesses	No Regulations
§1956	Laundering of Monetary Instruments	39 CFR Part 233
§1962	Prohibited Activities of Racketeer Influenced and Corrupt Organizations	No Regulations
§1963	Criminal Penalties for Racketeer Influenced and Corrupt Organizations	No Regulations
§2071	Concealment, Removal or Multilation Generally	19 CFR Part 801
§2231	Assault or Resistance	No Regulations
§2232	Destruction or Removal of Property to Prevent Seizure	No Regulations
§2233	Rescue of Seized Property	No Regulations
§3290	Fugitives From Justice	No Regulations

PART THREE. PRIMARY SOURCES: ADMINISTRATIVE

SECTION H. TREASURY REGULATIONS

Code section 7805(a) authorizes the Secretary of the Treasury to "prescribe all needful rules and regulations for the enforcement" of the tax statutes.⁵⁰ Regulations issued pursuant to this authorization are referred to as interpretive. In contrast, there are so-called legislative regulations, issued for Code sections in which Congress has included a specific grant of authority, allowing IRS experts to write rules for highly technical areas.⁵¹ Interpretive regulations will be upheld by a court unless they are clearly contrary to Congressional intent; legislative regulations are virtually unassailable.⁵²

Like the Code itself, regulations are found in a codified format. In addition, because the Treasury has the authority to apply new regulations retroactively, proposed regulations and regulations under development are relevant items in a research effort.⁵³

Final regulations are issued as Treasury Decisions (T.D.). Each T.D. begins with a preamble, which provides a textual discussion and the name of the appropriate IRS employee to contact for further information. The regulations for the 1986 Code are numbered in the same manner as the Code sections to which they relate, preceded by a numerical prefix indicating which tax is involved. The major prefixes are listed in Table 3.⁵⁴

⁵⁰ Regulations are actually formulated by the IRS, but they are approved by the Secretary of the Treasury or his delegate. See Procedural Rules of the Internal Revenue Service, § 601.601(a)(1), 26 C.F.R. § 601.601(a)(1).

⁵¹ See, e.g., I.R.C. § 7872(h)(1): "IN GENERAL—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, *adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section*" (emphasis added)

⁵² See Commissioner v. South Texas Lumber Co., 333 U.S. 496 (1948); United States v. Vogel Fertilizer Co., 455 U.S. 16 (1982). Courts increase the weight accorded interpretive regulations when such regulations were issued substantially contemporaneously with the underlying Code section and represent a consistently-applied IRS policy. See also discussion at note 38 and in Section E *supra*.

⁵³ I.R.C. § 7805(b). See Redhouse v. Commissioner, 728 F.2d 1249 (9th Cir.1984).

⁵⁴ Various excise taxes have prefixes which are omitted here. Temporary regulations have different prefixes than do final regulations. In this numbering system, Treas.Reg.

Table 3
Prefixes for Treasury Regulations

Income Tax	1	Generation Skipping Tax	26
Estate Tax	20	Procedure & Administration	301
Gift Tax	25	IRS Procedural Rules	601

1. Present Regulations

Regulations are codified annually as Title 26 in the *Code of Federal Regulations*; ⁵⁵ items issued during the year will appear in the *Federal Register*.⁵⁶

The lists below indicate tax-oriented materials where recent and already codified regulations can be located.

a. Codifications

- (1) *CCH Standard Federal Tax Reporter* (L.1.)
- (2) *P-H Federal Taxes* (L.1.)
- (3) Rabkin & Johnson, *Federal Income, Gift and Estate Taxation* (L.2.)
- (4) *U.S. Code Congressional & Administrative News—Federal Tax Regulations* (P.2.)

b. Recently Promulgated Regulations

- (1) *CCH Standard Federal Tax Reporter* (L.1.)
- (2) *P-H Federal Taxes* (L.1.)
- (3) *Federal Tax Coordinator 2d* (L.2.) (*Internal Revenue Bulletin* reprints)
- (4) Rabkin & Johnson, *Federal Income, Gift and Estate Taxation* (L.2.)
- (5) *Daily Tax Report* (O.2.) (includes preambles)
- (6) *Internal Revenue Bulletin; Cumulative Bulletin* (P.1.) (includes preambles)

Mertens, *Law of Federal Income Taxation—Regulations* (L.2.) included texts and preambles from 1954 until 1986. These volumes are still useful for historical research.

§ 1.108-1 would be immediately recognizable as a regulation involving income tax Code § 108, although the particular subsection of § 108 could not be determined.

⁵⁵ JACOBSTEIN & MERSKY, Chapter 13.

⁵⁶ *Id.*

2. Proposed Regulations

Before final regulations are issued, proposed regulations are generally published for taxpayer comment.⁵⁷ Most are assigned LR (Legislation and Regulations) numbers.⁵⁸ Final regulations are then issued as Treasury Decisions (T.D.). T.D.s are numbered in order of their issue without reference to the Code section involved.

Often a proposed regulation will be issued simultaneously as a temporary regulation. Taxpayers can rely on the temporary regulation while the proposed regulation is undergoing comment and possible amendment. As noted in Section A.2., temporary regulations constitute substantial authority for avoiding the Section 6661 penalty. Proposed regulations do not have this feature.

Proposed regulations can be located in the following services.

- a. *CCH Standard Federal Tax Reporter* (L.1.)
- b. *P-H Federal Taxes* (L.1.)
- c. *Federal Tax Coordinator 2d* (L.2.)
- d. *Rabkin & Johnson, Federal Income, Gift and Estate Taxation* (L.2.) (selected items)
- e. *Daily Tax Report* (O.2.)
- f. *U.S. Tax Week* (O.2.)
- g. *Internal Revenue Bulletin; Cumulative Bulletin* (P.1.)

3. Regulations Under Development

Because Congress has enacted new statutes and amended old ones quite frequently, many Code sections have no regulations or have regulations which fail to reflect current law. The IRS publishes a Semiannual Agenda of Regulations indicating all Code sections for which new regulations are under development or existing regulations are to be reviewed.⁵⁹ Extensive information is given about the status of each item, including its relative priority for the next six months. The Semiannual Agenda appears in the *Federal Register* on March 31 and

⁵⁷ Notice of Proposed Regulations appears in both the *Federal Register* and the *Internal Revenue Bulletin*. Proposed regulations also have preambles containing textual discussion and the name of an IRS employee who can be contacted for further information.

⁵⁸ Regulations are first promulgated in this division of the IRS, although they are reviewed in various other divisions. Those proposed regulations dealing with employee plans and exempt organizations receive EE numbers, and those involving international taxation receive IL (or INTL) numbers, denoting those IRS divisions. The IRS *Internal Revenue Bulletin* indexes proposed regulations using the EE, IL, and LR numbers. The LR, EE, and IL projects have multidigit numbers. The two numbers following the hyphen indicate the year the project began.

⁵⁹ Background memoranda prepared during a regulation's development are relevant if the regulation being litigated is ambiguous. *Jewett v. Commissioner*, 455 U.S. 305, 313 (1982); cf. *Deluxe Check Printers, Inc. v. United States*, 5 Cl.Ct. 498 (1984).

September 30. A monthly regulations projects status report is published in the *Daily Tax Report*.⁶⁰ [See Illustration 16.]

4. Prior Regulations

The materials in subsection 1 contain the current year's regulations. Prior language will often be relevant in evaluating recent changes or because the research effort involves a previously completed transaction. The materials listed below can be used to obtain such prior language.

a. Mertens, *Law of Federal Income Taxation—Regulations* (L.2.) (pre-1986 Code only)

b. *United States Code Congressional & Administrative News—Federal Tax Regulations* (P.2.)

c. *P-H Cumulative Changes* (P.4.)

If a 1954 Code regulation was originally published before 1960, it was also republished that year in T.D. 6498, 6500, or 6516. The USCCAN service ignores the original publication in its history notes; *Cumulative Changes* omits the 1960 T.D.s; Mertens cites only the most recent change in a regulation.

5. Citators for Final Regulations

Regulations rarely keep pace with Congressional activity. Each time a Code section changes, existing regulations should be reconsidered. They may no longer be relevant. It is possible they will be totally invalid. If a regulation appears to contradict statutory language, check the date of its most recent T.D. to see if it predates the Code section involved. Be prepared to do further research, generally with a citator, if the regulation was promulgated in response to a current statute.

When a transaction is affected by an existing regulation, that regulation's success or failure in previous litigation is quite relevant. The Internal Revenue Service does not consider itself bound by adverse decisions in any tribunal other than the Supreme Court, and it will not withdraw a regulation merely because one or more lower courts have invalidated it.⁶¹ A citator indicating judicial action on regulations is extremely useful as a tool in gauging the likelihood of government success when a regulation is being challenged.

⁶⁰ See JACOBSTEIN & MERSKY, Chapter 13, for a discussion of the *Federal Register*. The *Daily Tax Report* is described in Section O.2.

⁶¹ See, e.g., Treas.Reg. § 1.105-4(a)(3)(i) (1966), which was invalidated by the Sixth and Tenth Circuits as well as by the Court of Claims, and finally amended by the IRS in T.D. 7352 (1975).

The three citators listed below follow two basic patterns: they are arranged in either regulations section order or in Treasury Decision number order.⁶²

a. *Shepard's Code of Federal Regulations Citations; Shepard's Federal Tax Citations* (K.1.) (both C.F.R. section and T.D. number)

b. *P-H Federal Taxes—Citator* (K.2.) (T.D. number)

c. *CCH Standard Federal Tax Reporter—Citator* (K.3.) (T.D. number)

6. Bibliography

a. Zelenak, *Thinking About Nonliteral Interpretations of the Internal Revenue Code*, 64 N.C.L.REV. 623 (1986).

b. Knight & Knight, *A New Approach to Judicial Review of Interpretative Regs*, 65 J.TAX'N 326 (1986).

⁶² All three citators are described in Section K of this text.

Where are the Regulations Supporting General Application of Tax?

The Parallel Table of Authorities and Rules is useful as it demonstrates that Subtitles A & C taxes do not have general application within the several States and to the population at large. The regulation for 26 USC Section 1 refers to 26 CFR Section 301, but that amounts to a dead end – there is no regulation which would apply to the several States and the population at large. Further, there are no supportive regulations at all for 26 USC Sections 2&3, and of considerable significance, no regulations supporting corporate income tax, 26 USC Section 11, as applicable to the several States.

Where the instant matter is concerned, regulations supporting 26 USC Section 6321, liens for taxes, and Section 6331, levy and distraint, are under 27 CFR, Part 70. The importance here is that Title 27 of the Code of Federal Regulations is exclusively under Bureau of Alcohol, Tobacco and Firearms administration for Subtitle E and related taxes. There are *no* corresponding regulations for the Internal Revenue Service, in 26 CFR, Part 1 or 31, which extend comparable authority to the several States and the population at large.

The necessity of regulations being published in the Federal Register is variously prescribed in the Administrative Procedures Act, at 5 USC Sections 552 et seq., and the Federal Register Act, at 44 USC Section 1501 et seq. Of particular note, it is specifically set out at 44 USC Section 1505(a), that when regulations are not published in the Federal Register, application of any given statute is exclusively to agencies of the United States and officers, agents and employees of the United States, thus once again confirming application of Subtitles A & C tax demonstrated above. Further, the need for regulations is detailed in 1 CFR, Chapter 1, and where the Internal Revenue Service is concerned, 26 CFR Section 601.702.

The need for regulations has repeatedly been affirmed by the Supreme Court of the United States, as stated in California Bankers Ass'n. v. Schultz, 416 U.S. 21, 26, 94 S. Ct. 1494, 1500, 39 L.Ed.2d 812 (1974):

Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone... The government argues that since only those who violate regulations may incur civil and criminal penalties it is the regulations issued by the Secretary of the Treasury and not the broad, authorizing language of the statute, which is to be tested against the standards of the 4th Amendment...

Because there is a citation supporting these statutes applicable under Title 27 of the Code of Federal Regulations, it is important to point out that, "Each agency shall publish its own regulations in full text," (1 CFR Sections 21.21(C), with further verification that one agency cannot use regulations promulgated by another at 1 CFR Section 21.40. **To date, no corresponding regulation has been found for 26 CFR, Part 1 or 31, so until proven otherwise, IRS does not have authority to perfect liens or prosecute seizures in the several States as pertaining to the population at large.**

For more information and a free literature list contact: VIP, Box 463, Owensville, Ohio 45160
(513) 641-2221

Internal Revenue Service, Treasury

§ 601.101

- 601.505 Requirements for changing representation.
- 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.
- 601.507 Evidence required to substantiate facts alleged in conferences.
- 601.508 Contest between representatives of a taxpayer.
- 601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

REQUIREMENTS FOR ALCOHOL, TOBACCO, AND FIREARMS ACTIVITIES

- 601.521 Requirements for conference and representation in conference.
- 601.522 Power of attorney.
- 601.523 Tax information authorization.
- 601.524 Execution and filing powers of attorney and tax information authorizations.
- 601.525 Certification of copies of documents.
- 601.526 Revocation of powers of attorney and tax information authorizations.
- 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

Subpart F—Rules, Regulations, and Forms

- 601.601 Rules and regulations.
- 601.602 Tax forms and instructions.

Subpart G—Records (Note)

- 601.701 Publicity of information.
- 601.702 Publication and public inspection.

Subpart H—Tax Counseling for the Elderly

- 601.801 Purpose and statutory authority.
- 601.802 Cooperative agreements.
- 601.803 Program operations and requirements.
- 601.804 Reimbursements.
- 601.805 Miscellaneous administrative provisions.
- 601.806 Solicitation of applications.

Subpart J—OMB Control Numbers Under the Paperwork Reduction Act

- 601.9000 OMB control numbers for the statement of procedural rules.

AUTHORITY: 5 U.S.C. 301 and 552, unless otherwise noted.

SOURCE: 32 FR 15990, Nov. 22, 1967, unless otherwise noted.

NOMENCLATURE CHANGE NOTE: In Part 801 the terms "Assistant Regional Commissioner (Alcohol, Tobacco and Firearms)" or "Regional Director" shall mean the "special agent in charge" or the "regional regulatory

administrator in the Bureau of Alcohol, Tobacco and Firearms". For further explanation, see 41 FR 44038, Oct. 8, 1976.

Subpart A—General Procedural Rules

§ 601.101 Introduction.

(a) *General.* The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director, Foreign Operations District, administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations, provided the books and records of those taxpayers are located outside the United States. For purposes of these procedural rules any reference to a district director or a district office includes the Director, Foreign Operations District, or the District Office, Foreign Operations District, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a de-

§ 601.102

scriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment, collection, and enforcement of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment, collection, and enforcement functions are separately described in Subpart B of this part. A description of the rule making functions of the Department of the Treasury with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules with respect to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Title 26 of the Code of Federal Regulations. The regulations administered by the Bureau of Alcohol, Tobacco and Firearms are contained in Title 27 of the Code of Federal Regulations. See § 601.301.

(c) *Application to Bureau of Alcohol, Tobacco and Firearms.* This part sets forth most of the procedural rules for the Bureau of Alcohol, Tobacco and Firearms. However, some of its procedural rules have been transferred to Part 71 of Title 27 of the Code of Federal Regulations (a portion of the Code of Federal Regulations exclusively devoted to alcohol, tobacco, firearms, and explosives matters). As used in this part, with regard to the administration and enforcement of the laws

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applicable to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, firearms, and explosives, the terms "assistant regional commissioner", "Commissioner", and "Chief Counsel" shall be construed as meaning respectively "regional regulatory administrator", "Director", and "Chief Counsel", the Bureau of Alcohol, Tobacco and Firearms. The term "internal revenue region" or "region" when used in connection with documents filed with, or matters handled by, a regional regulatory administrator, shall mean an Alcohol, Tobacco and Firearms Region. The seven ATF regions are listed in Appendix A to Subpart C, 27 CFR Part 71.

[38 FR 4955, Feb. 23, 1973 and 41 FR 20880, May 21, 1976, as amended at 45 FR 7251, Feb. 1, 1980; 49 FR 36498, Sept. 18, 1984]

§ 601.102 Classification of taxes collected by the Internal Revenue Service.

(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

- (1) Taxes collected by assessment.
 - (2) Taxes collected by means of revenue stamps.
- (b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:
- (1) Taxes within the jurisdiction of the U.S. Tax Court. These include:
 - (i) Income and profits taxes imposed by Chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.
 - (ii) Estate taxes imposed by Chapter 3 of the 1939 Code and Chapter 11 of the 1954 Code.
 - (iii) Gift tax imposed by Chapter 4 of the 1939 Code and Chapter 12 of the 1954 Code.
 - (iv) The tax on generation-skipping transfers imposed by Chapter 13 of the 1954 Code.
 - (v) Taxes imposed by Chapters 41 through 44 of the 1954 Code.
 - (2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by Chapter 1, 2, 3, or 4 of the 1939 Code or Subtitle A or Chapter 11 or 12 of the 1954 Code are within this class, such as:

- (1) Employment taxes.

FREEDOM OF INFORMATION ACT REQUEST

Internal revenue Service
P.O. Box 795
Ben Franklin Station
Washington, DC 20044

You are hereby put on notice that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have has been deleted or substituted, this demand still applies.
Agent's Initial's-----

From:

Dear Sir/Madam,

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 31 CFR 1.5.
2. If some of this request is exempt from release, please send me those portions that can reasonably be segregated. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that this request is for commercial publication. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years 1986 through 1998.
5. BACKGROUND: The National Prohibition Act, repealed in 1933, was extended to the Virgin islands and Puerto Rico in 1935, then reclassified to Title 26 in 1939, as evidenced by 48 USC 1402, a copy of which is attached hereto and incorporated herein by reference as exhibit A.
6. Please send me a copy of the documents disclosing the identity of the agency administering and/or enforcing Title III of the National Prohibition Act.

4/19/99

Respectively submitted.



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

Case No: 1999-2964 and 2996
Contact Person: Mr. J. Cardonick
Badge No: 50-01108
Telephone No: 202-622-3668
Date: MAY - 4 1999

Dear Mr.


This letter is in response to your Freedom of Information Act (FOIA) requests dated March 19 & 24, 1999, for documents pertaining to the National Prohibition Act (NPA).

We have been advised by the Bureau of Alcohol, Tobacco and Firearms (BATF) that all sections of the Internal Revenue Code (IRC) dealing with issues formerly in the NPA are the responsibility of the BATF; these issues are generally applicable only to businesses, not individual taxpayers.

Although there are no documents that would be responsive to your request, I trust this information will prove helpful to you.

Enclosed you will find Notice 393, which discusses exemptions and appeal rights.

Sincerely,


Thomas Marusin
for Director, Freedom of Information
Badge No. 50-04672

Enclosure
Notice 393

code of federal regulations

CFR Index and Finding Aids

Revised as of January 1, 1998

Published by
the Office of the Federal Register
National Archives and Records
Administration

as a Special Edition of
the Federal Register



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7651 et seq	40 Part 76		29, 31, 35, 37, 42, 47, 48, 50, 51, 55,
7651—7652	27 Part 250		58, 61, 71, 73, 76, 77, 81, 500, 501, 503,
7652	27 Parts 17, 275		504, 511—513, 522—524, 527, 540, 541,
7653	27 Part 70		543—545, 547—550, 552, 553, 570—572,
7654	26 Part 1		600—603
7701	26 Parts 1, 31, 301		48 Part 2819
7804	26 Part 1	509	28 Parts 64, 80, 542
7805	20 Part 615	510	28 Parts 36, 542
	26 Parts 1—5,		48 Parts 2801—2810,
	5c, 5e, 5f, 6a, 7, 8, 9, 11—13, 14a,		2812—2817, 2822, 2824, 2825, 2828—
	15, 15a, 16, 16a, 17—20, 22, 25, 26,		2835, 2845, 2852, 2870
	27, 31, 32, 35, 35a, 36, 40, 41, 43—	513	32 Part 516
	49, 52—55, 141, 143, 145, 148, 156, 301—	515—519	28 Part 0, 17
	303, 305, 400, 401, 403, 404, 420, 504,	515	28 Parts 77, 600—602
	505, 509—511, 514, 515, 601, 602, 701,		32 Part 516
	702	515—518	28 Part 9
		516	28 Part 77



May 16, 1994

THE TRUTH IS IN THE FEDERAL REGISTER

Dear Mr.

The Director of the Federal Register has asked me to respond to your inquiry. You have asked whether Internal Revenue Service provisions codified at 26 U.S.C. 6020, 6201, 6202, 6301, 6303, 6321, 6331 through 6343, 6601, 6602, 6651, 6701, and 7207 have been processed or included in 26 CFR part 1.

The Parallel Table of Authorities and Rules, a finding aid compiled and published by the Office of the Federal Register (OFR) as a part of the CFR Index, indicates that implementing regulations for the sections cited above have been published in various parts of title 27 of the Code of Federal Regulations (CFR). There are no corresponding entries for title 26.

However, the Parallel Table is only an extract of authority citations from the CFR data base and cannot be considered a comprehensive key to the statutory basis of all regulations. An agency may have additional authority for regulations that are not listed separately in authority citations, or is carried within the text of CFR sections. Citations in regulatory text generally do not appear as entries in the Parallel Table.

Since there are 12 volumes that make up part 1 of title 26 of the CFR, it would require extensive research to answer your question with certainty. Commercial computer based services are better equipped to perform this type of research. In any case, the OFR has neither the resources nor the authority to perform the research requested, since to do so would require us to make substantive interpretations as to whether certain tax statutes have any association with the specified set of regulations (see 1 CFR 3.1 enclosed).

Your second question refers to IRS procedures for incorporating material by reference in the Federal Register. The incorporation by reference process is narrowly defined by the provisions of 5 U.S.C. 552(a) and 1 CFR Part 51. Our records indicate that the Internal Revenue Service has not incorporated by reference in the Federal Register (as that term is defined in the Federal Register system) a requirement to make an income tax return.

I hope this information will be useful to you.

Sincerely,

MICHAEL J. WHITE
Attorney
Office of the Federal Register

Enclosure



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

[REDACTED]
[REDACTED]
[REDACTED]

Person to Contact:
M. Zolton
Telephone Number:
(202) 622-3108
Refer Reply to:
97-1577
Date: JUN 23 1997

Dear Mr. [REDACTED]

This is in response to your June 9, 1997, request under the Freedom of Information Act for a copy of the documents that evidence the specific date United States Code Title 26 was enacted into positive law.

Title 26 has not been enacted into positive law. Therefore, there is no documentation that is responsive to your request. Because we have determined that no records exist, we are enclosing Notice 393, which provides information about your appeal rights. In addition, the following information may be of some interest to you.

The United States Code is divided into fifty titles. Of these fifty titles, twenty and part of another have been enacted into positive law. If a title has been so enacted, the text of that title constitutes legal evidence of the laws in that title. If the title has not been so enacted, the title is only prima facie evidence of the actual law. The courts could require proof of the statutes underlying the title, which are the positive law when the title has not been enacted into positive law.

The Office of Law Revision Counsel, which has the responsibility for preparing titles for enactment into positive law, states that titles are chosen for enactment into positive law on two bases. Some are chosen because of congressional mandate that the laws be codified. Otherwise, the Office of Law Revision Counsel prefers to select titles which cover areas of minimal legislative activity. The tax laws do not meet either one of these criteria.

The underlying statute, and the positive law, for the tax code is the Internal Revenue Code of 1986 (Pub. L. 99-514, 100 Stat. 2085, 99th Cong., 2nd Sess.) as amended. Title 26 of the United States Code is an editorial codification of this act prepared and published under the supervision of the House Judiciary Committee, pursuant to statute (see, 1 U.S.C. section 202). The courts, in short, have the discretion to recognize the Internal Revenue Code as the applicable law, or require proof of the underlying statute.

We hope this information is helpful.

Sincerely yours,

Mark L. Zolton

Mark L. Zolton
Tax Law Specialist
Freedom of Information

"The Statutes at Large of the United States of America—from March, 1911 to March, 1913

Concurrent resolutions of the Two Houses of Congress and recent treaties, conventions and executive proclamations edited and printed and publicized by authority of Congress under the direction of the Secretary of State, Volume 37, part 2, Private Acts and Resolutions, concurrent resolutions, treaties and proclamations.

**"Private Laws of the United States of America passed by the 62nd Congress 1911 to 1913,
Sixteenth Amendment to the Constitution"**

The Sixteenth Amendment is listed according to this information as both a joint Resolution and as a Private Law. This is very significant when this is analyzed in the light of the intent of the framers of the Sixteenth Amendment. According to Black's Law Dictionary the definition of a Private Law is as follows:

PRIVATE LAW. As used as contradistinction to public law, the term means all that part of the law is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals.

Again, according the Black's Law dictionary the definition of Public Law is as follows:

PUBLIC LAW. That branch or department of law which is concerned with the state in its political or sovereign capacity, including constitutional and administrative law, and with the definition, regulation and enforcement of rights in cases where the state is regarded as the subject of the right or object of the duty, including criminal law and criminal procedure, and the law of the state, considered in its quasi private personality, i.e. as capable of holding or exercising rights, or acquiring and dealing with property, in the character of an individual. Holl. Jur.

PREFACE

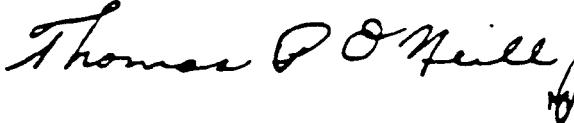
UNITED STATES CODE 1982 EDITION

This tenth edition of the United States Code, prepared and published pursuant to section 285b of Title 2 of the Code, is a consolidation and codification of all the general and permanent laws of the United States in force on January 14, 1983. By statutory authority this edition may be cited as "U.S.C. 1982 ed.". Previous editions were published in 1926, 1934, 1946, 1952, 1958, 1964, 1970, and 1976.

Because many of the general and permanent laws that are required to be incorporated in the Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel of the House of Representatives has been engaged in a continuing, comprehensive project authorized by law to revise and codify, for enactment into positive law, each title of the Code. When this project is completed, all the titles of the Code will be legal evidence of the general and permanent laws and recourse to the numerous volumes of the United States Statutes at Large for this purpose will no longer be necessary. Titles 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 35, 37, 38, 39, 44, and 49 have been revised, codified, and enacted into positive law and the text thereof is legal evidence of the laws there contained. The matter contained in the other titles of the Code is prima facie evidence of the laws.

The title and chapter structure of the 1976 edition, together with Supplement V thereto, has been substantially preserved, the only changes made having been necessitated by the enactment of legislation since 1976.

This edition was prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made to the staffs of the Office of the Law Revision Counsel, the West Publishing Company, and the Government Printing Office for their untiring efforts to make this edition as nearly perfect as possible.



Speaker of the House of Representatives

WASHINGTON, D.C., January 14, 1983.

TITLES OF UNITED STATES CODE

- * 1. General Provisions
- 2. The Congress [§§ 1-200 are contained in this volume]
- * 3. The President
- * 4. Flag and Seal, Seat of Government and the States
- * 5. Government Organization and Employees; Appendix
- †† 6. [Surety Bonds]
- 7. Agriculture
- 8. Aliens and Nationality
- * 9. Arbitration
- * 10. Armed Forces
- * 11. Bankruptcy
- 12. Banks and Banking
- * 13. Census
- * 14. Coast Guard
- 15. Commerce and Trade
- 16. Conservation
- * 17. Copyrights
- * 18. Crimes and Criminal Procedure; Appendix
- 19. Customs Duties
- 20. Education
- 21. Food and Drugs
- 22. Foreign Relations and Intercourse
- * 23. Highways
- 24. Hospitals and Asylums
- 25. Indians
- 26. Internal Revenue Code
- 27. Intoxicating Liquors
- * 28. Judiciary and Judicial Procedure; Appendix
- 29. Labor
- 30. Mineral Lands and Mining
- * 31. Money and Finance
- * 32. National Guard
- 33. Navigation and Navigable Waters
- † 34. [Navy]
- * 35. Patents
- 36. Patriotic Societies and Observances
- * 37. Pay and Allowances of the Uniformed Services
- * 38. Veterans' Benefits
- * 39. Postal Service
- 40. Public Buildings, Property, and Works
- 41. Public Contracts
- 42. The Public Health and Welfare
- 43. Public Lands
- * 44. Public Printing and Documents
- 45. Railroads
- * * * 46. Shipping; Appendix
- 47. Telegraphs, Telephones, and Radio-telegraphs
- 48. Territories and Insular Possessions
- * * 49. Transportation; Appendix
- 50. War and National Defense; Appendix

* This title has been enacted as positive law. However, any Appendix to the title has not been enacted as law

* * Subtitles I, II and IV of this title have been enacted as positive law.

* * * Subtitles II and III of this title have been enacted as positive law.

† This title has been superseded by the enactment of Title 10 as positive law.

†† This title has been superseded by the enactment of Title 31 as positive law.

Titles of the United States Code which have been enacted into positive law are legal evidence of the general and permanent laws, while nonpositive law titles only establish prima facie the laws of the United States (1 USCS § 204(a)). Consult pocket part supplements for any subsequent changes to the list of Titles of the United States Code.

bia. Act Dec. 27, 1967, P. L. 90-226, Title X, §§ 1001-1009, 81 Stat. 724, which provided for the creation and operation of a commission to study and make recommendations with reference to a revised code of criminal law and procedure for the District of Columbia, was repealed by Act July 29, 1970, P. L. 91-358, Title VI, § 601, 84 Stat. 667; Dec. 7, 1970, P. L. 91-530, § 2(b)(1), 84 Stat. 1390.

CROSS REFERENCES

Council of the District of Columbia, 2 USCS § 285b.

Office of the Law Revision Counsel, 2 USCS § 285b.

This section is referred to in 1 USCS §§ 201, 205, 208, 209, 210, 211, 213.

§ 204. Codes and Supplements as evidence of the Laws of United States and District of Columbia; citation of Codes and Supplements

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—

(a) **United States Code.** The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

(b) **District of Columbia Code.** The matter set forth in the edition of the Code of the District of Columbia current at any time shall, together with the then current supplement, if any, establish prima facie the laws, general and permanent in their nature, relating to or in force in the District of Columbia on the day preceding the commencement of the session following the last session the legislation of which is included, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in their nature.

(c) **District of Columbia Code; citation.** The Code of the District of Columbia may be cited as "D. C. Code."

(d) **Supplements to Codes; citation.** Supplements to the Code of Laws of the United States and to the Code of the District of Columbia may be cited, respectively, as "U. S. C., Sup. ," and "D. C. Code, Sup. ," the blank in each case being filled with Roman figures denoting the number of the supplement.

(e) **New edition of Codes; citation.** New editions of each of such codes may be cited, respectively, as "U. S. C., ed.," and "D. C. Code, ed.," the blank in each case being filled with figures denoting the last year the legislation of which is included in whole or in part.

(July 30, 1947, ch 388, § 1, 61 Stat. 638.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Other provisions:**

United States Code titles as positive law. The following titles of the United States Code were enacted into positive law by the acts enumerated below:

Title 1, General Provisions—Act July 30, 1947, ch 388, § 1, 61 Stat. 633.

Title 3, The President—Act June 25, 1948, ch 644, § 1, 62 Stat. 672.

Title 4, Flag and Seal, Seat of Government, and the States—Act July 30, 1947, ch 389, § 1, 61 Stat. 641.

Title 5, Government Organization and Employees—Act Sept. 6, 1966, P. L. 89-554, § 1, 80 Stat. 378.

Title 6, Surety Bonds—Act July 30, 1947, ch 390, § 1, 61 Stat. 646, June 6, 1972, Pub. L. 92-310, Title II, § 203(4), 86 Stat. 202, and repealed Sept. 13, 1982, 97-258, § 5(b), 96 Stat. 1068, 1085. Similar provisions are now contained in 31 USCS §§ 101 et seq.

Title 9, Arbitration—Act July 30, 1947, ch 392, § 1, 61 Stat. 669.

Title 10, Armed Forces—Act Aug. 10, 1956, ch 1041, § 1, 70A Stat. 1.

Title 11, Bankruptcy—Act Nov. 6, 1978, P. L. 95-598, Title I, § 101, 92 Stat. 2549.

Title 13, Census—Act Aug. 31, 1954, ch 1158, 68 Stat. 1012.

Title 14, Coast Guard—Act Aug. 4, 1949, ch 393, § 1, 63 Stat. 495.

Title 17, Copyrights—Act July 30, 1947, ch 391, § 1, 61 Stat. 652; Oct. 19, 1976, Pub. L. 94-553, title I, § 101, 90 Stat. 2541.

Title 18, Crimes and Criminal Procedure—Act June 25, 1948, ch 645, § 1, 62 Stat. 683.

→ Title 23, Highways—Act Aug. 27, 1958, P. L. 85-767, § 1, 72 Stat. 885.

Title 28, Judiciary and Judicial Procedure—Act June 25, 1948, ch 646, § 1, 62 Stat. 869.

Title 32, National Guard—Act Aug. 10, 1956, ch 1041, § 2, 70A Stat. 596.

Title 31, Money and Finance—Act Sept. 13, 1982, P. L. 97-258, § 1, 96 Stat. 877.

Title 34, Navy—See Title 10, Armed Forces.

Title 35, Patents—Act July 19, 1952, ch 950, § 1, 66 Stat. 792.

Title 37, Pay and Allowances of the Uniformed Services—Act Sept. 7, 1962, P. L. 87-649, § 1, 76 Stat. 451.

Title 38, Veterans' Benefits—Act Sept. 2, 1958, P. L. 85-857, § 1, 72 Stat. 1105.

Title 39, Postal Service—Act Sept. 2, 1960, P. L. 86-682, § 1, 74 Stat. 578, as revised Aug. 12, 1970, P. L. 91-375, § 2, 84 Stat. 719.

Title 44, Public Printing and Documents—Act Oct. 22, 1968, P. L. 90-620, § 1, 82 Stat. 1238.

Title 46, Shipping—Act Aug. 26, 1983, P. L. 98-89, § 1, 97 Stat. 500; Oct. 21, 1986, P. L. 99-509, Title V, Subtitle B, § 5101, 100 Stat. 1913; Nov. 23, 1988, P. L. 100-710, Title I, § 102, 102 Stat. 4739.

Title 49, Transportation—Act Oct. 17, 1978, P. L. 95-473, § 1, 92 Stat. 1337; Jan. 12, 1983, P. L. 97-449, § 1, 96 Stat. 2413.

Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was enacted in the form of a separate code by Act August 16, 1954, ch 736, 68A Stat. 1. Act Oct. 22, 1986, P. L. 99-514, § 2(a), 100 Stat. 2095, provides that the Internal Revenue Code enacted Aug. 16, 1954, as heretofore, hereby, or hereafter amended, may be cited as the "Internal Revenue Code of 1986". The sections of Title 26, USCS, are identical to the sections of the Internal Revenue Code.

CROSS REFERENCES

Admissibility of Statutes at Large, 1 USCS § 112.

Admissibility of other editions of laws and treaties, 1 USCS § 113.

Copies of Codes and supplements as conclusive evidence of original, 1 USCS § 209.

Proof of official records, Rule 44, Federal Rules of Civil Procedure, USCS Court Rules.

Authentication of documents, Rule 902, Federal Rules of Evidence, USCS Court Rules.

This section is referred to in 1 USCS § 208.

RESEARCH GUIDE

Federal Procedure L Ed:

12 Fed Proc L Ed, Evidence §§ 33:526, 584, 585.

Am Jur:

30 Am Jur 2d, Evidence §§ 969, 1110.

32B Am Jur 2d, Federal Rules of Evidence § 301.

INTERPRETIVE NOTES AND DECISIONS

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3. Revisions of United States Code
4. Validity of supplementing sections
5. Resolution of conflict between statutes and United States Code, generally
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I. IN GENERAL

1. Generally

Reviser's notes are authoritative in interpreting United States Code. *United States v National City Lines, Inc.* (1949) 337 US 78, 93 L Ed 1226, 69 S Ct 955; *Acron Invest., Inc. v Federal Sav. & Loan*

Ins. Corp. (1966, CA9 Cal) 363 F2d 236, cert den (1966) 385 US 970, 17 L Ed 2d 434, 87 S Ct 506.

United States Code of Laws is not re-enactment of statutes included within it. *United States ex rel. Boyd v McMurtry* (1933, WD Ky) 5 F Supp 515, 13 AFTR 143.

2. United States Code as prima facie evidence

Code embodies only prima facie statement of statutory law. *United States ex rel. Kessler v Mercur Corp.* (1936, CA2 NY) 83 F2d 178, 36-2 USTC ¶ 9350, 17 AFTR 940, cert den (1936) 299 US 576, 81 L Ed 424, 57 S Ct 40.

United States Code is not enacted as statute, nor can it be construed as such, it being only prima facie statement of statute law; statutes collected in it do not change their meaning nor acquire any new force by their inclusion; if construction is necessary, recourse must be had to original statutes. *Murrell v Western Union Tel. Co.* (1947, CA5 Fla) 160 F2d 787.

Official source for United States laws is Statutes at Large and United States Code is only prima facie evidence of such laws. *Royer's Inc. v United States* (1959, CA3 Pa) 265 F2d 615, 59-1 USTC ¶ 9371, 3 AFTR 2d 1137.

Unless Congress affirmatively enacts title of United States Code into law, title is only "prima facie" evidence of law. *Preston v Heckler* (1984, CA9 Alaska) 734 F2d 1359, 34 CCH EPD ¶ 34433, later proceeding (1984, DC Alaska) 596 F Supp 1158.

Congress' failure to enact title as positive law has only evidentiary significance and does not render underlying enactment invalid or unenforceable. *Ryan v Bilby* (1985, CA9 Ariz) 764 F2d 1325, 85-2 USTC ¶ 9524, 56 AFTR 2d 85-5458.

Law listed in current edition of United States Code is prima facie evidence of law of United States. *Young v IRS* (1984, ND Ind) 596 F Supp 141, 84-2 USTC ¶ 9860, 40 FR Serv 2d 239, 54 AFTR 2d 84-6367.

In construing provision of title that has been enacted into positive law, court may neither permit nor require proof of underlying original statutes; however, where title has not been enacted into positive law, title is only prima facie or rebuttable evidence of law, and if construction is necessary, recourse may be had to original statutes themselves. *United States v Zuger* (1984, DC Conn) 602 F Supp 889, affd without op (1985, CA2 Conn) 755 F2d 915, cert den and app dismd (1985) 474 US 805, 88 L Ed 2d 32, 106 S Ct 38.

3. Revisions of United States Code

It will not be inferred that Congress, in revising and consolidating laws, intended to change their effect unless such intention is clearly expressed. *Fourco Glass Co. v Transmirra Products Corp.* (1957) 353 US 222, 1 L Ed 2d 786, 77 S Ct 787, 113 USPQ 234 (superseded by statute on other grounds as stated in *Century Wrecker Corp. v Vulcan Equipment Co.* (1989, ED Tenn) 733 F Supp 1170, 13 USPQ2d 1715) and (superseded by statute on other grounds as stated in *Regents of University of California v Eli Lilly & Co.* (1990, ND Cal) 734 F Supp 911, 14 USPQ2d 1909) and (superseded by statute on other grounds as stated in *Ernster v Ralston Purina Co.* (1990, ED Mo) 740 F Supp 724, 16 USPQ2d 1222); *Robert E. Lee & Co. v Veatch* (1961, CA4 SC) 301 F2d 434, 96 ALR2d 619, cert den (1962) 371 US 813, 9 L Ed 2d 55, 83 S Ct 23.

The 1948 revision of Title 28 did no more than codify existing law, and it cannot be assumed that 15 USCS § 29 was partially repealed or that 28 USCS §§ 1291 and 1292 create a symmetrical scheme for review by courts of appeals. *United States v Cities Service Co.* (1969, CA1 Mass) 410 F2d 662, 1969 CCH Trade Cases ¶ 72787.

4. Validity of supplementing sections

Statute may not be construed to establish even prima facie validity of supplementary section to title intended to be, but not, enacted into absolute

law. *Rasquin v Muccini* (1934, CA2 NY) 72 F2d 688, 4 USTC ¶ 1333, 14 AFTR 498.

5. Resolution of conflict between statutes and United States Code, generally

United States Code does not prevail over Statutes at Large when the two are inconsistent. *Stephan v United States* (1943) 319 US 423, 87 L Ed 1490, 63 S Ct 1135; *Peart v The Motor Vessel Bering Explorer* (1974, DC Alaska) 373 F Supp 927.

Under 1 USCS § 204(a), if construction of section of United States Code which has not been enacted into positive law is necessary, recourse must be had to original statutes themselves and change of arrangement, made by codifier with approval of Congress, should be given no weight. *United States v Welden* (1964) 377 US 95, 12 L Ed 2d 152, 84 S Ct 1082.

False Claims Act language in Title 31 USC (§§ 231 et seq.) differs in some important aspects from that contained in Revised Statutes, and since Title 31 has not been enacted into positive law, official text of statute is that which appears in Revised Statutes [as published in 31 USCS §§ 231 and note et seq.]. *United States v Bornstein* (1976) 423 US 303, 46 L Ed 2d 514, 96 S Ct 523.

Court of Appeals lacks jurisdiction to hear appeal regarding challenges to notices to establish user fee schedules by Department of Transportation's Research and Special Programs Administration pursuant to § 7005 of Comprehensive Omnibus Budget Reconciliation Act of 1986 (49 USCS Appx § 1682a), since § 7005 does not contain express provisions for judicial review of agency action, and § 8 codified at 49 USCS Appx § 1675 has not been enacted into positive law, so wording of this provision found in Statutes at Large governs and that version does not provide basis for judicial review. *Five Flags Pipe Line Co. v DOT* (1988) 272 US App DC 221, 854 F2d 1438, transf to (1992, DC Dist Col) 1992 US Dist LEXIS 3881.

United States Code is only prima facie law, and where statute in Code does not agree with words of Congress, court could construe and apply it according to intention of Congress. *Leonardi v Chase Nat. Bank* (1936, CA2 NY) 81 F2d 19, cert den (1936) 298 US 677, 80 L Ed 1398, 56 S Ct 941.

Code cannot prevail over statutes at large when 2 are inconsistent. *Preston v Heckler* (1984, CA9 Alaska) 734 F2d 1359, 34 CCH EPD ¶ 34433, later proceeding (1984, DC Alaska) 596 F Supp 1158.

Although United States Code establishes prima facie what laws of United States are, to extent that provisions of United States Code are inconsistent with Statutes at Large, Statutes at Large will prevail. *Best Foods, Inc. v United States* (1956) 37 Cust Ct 1, 147 F Supp 749.

6. —Where Code title has been enacted into positive law

Despite the fact that the criminal provisions of the False Claims Act were altered and codified in Title 18, insofar as civil liability is concerned, the version of these provisions contained in R. S. § 5438 [reproduced at 31 USCS § 231 note] continues to be the official one. *United States v Neifert-White Co.* (1968) 390 US 228, 19 L Ed 2d 1061, 88 S Ct 959.

Even though the wording of 28 USCS § 1253, an enacted title, would seem to allow review by the Supreme Court of any three-judge court interlocutory order granting or denying either a temporary or a permanent injunction, the statutes upon which the Code section is based allowed review only of final judgments dealing with permanent injunctions or interlocutory orders with regard to preliminary injunctions and, as the revision notes indicate no intent to make substantive changes, the Code section is no broader than the statutes upon which it is based. *Goldstein v Cox* (1970) 396 US 471, 24 L Ed 2d 663, 90 S Ct 671.

Contention that Internal Revenue Code (26 USCS §§ 1 et seq.) is not positive law and therefore District Court has no jurisdiction, is rejected where challenged code sections have not been identified, nor has single instance been cited wherein any portion of Title 26 differs from Internal Revenue Code as passed and amended. *United States v Wodtke* (1985, ND Iowa) 627 F Supp 1034, 86-2 USTC ¶ 9669, 57 AFTR 2d 86-1334, affd (1988, CA8 Iowa) 871 F2d 1092.

7. District of Columbia Code

District of Columbia Code is codification and compilation of existing statutes; 1 USCS § 204(b), which authorizes preparation and publication of District of Columbia Code, declares that Code shall establish prima facie laws then in effect; however, very meaning of "prima facie" is that Code cannot prevail over statutory sources. *Fisher v Capital Transit Co.* (1957) 100 US App DC 385, 246 F2d 666.

II. ERRORS IN UNITED STATES CODE

8. Generally

Since 1940 Edition of United States Code was in palpable error in codifying § 3 of Robinson-Patman Act as being among "antitrust laws" embraced in § 1 of Clayton Act, underlying statute must prevail. *Nashville Milk Co. v Carnation Co.* (1958) 355 US 373, 2 L Ed 2d 340, 78 S Ct 352, reh den (1958) 355 US 967, 2 L Ed 2d 542, 78 S Ct 530.

Mistakes of compilers of United States Code of Laws of 1925 did not operate to change construction and effect of laws as they existed theretofore. *Olson v Mellon* (1933, WD Pa) 4 F Supp 947, 13

AFTR 23, affd (1934, CA3 Pa) 71 F2d 1021, 14 AFTR 376, cert den (1934) 293 US 615, 79 L Ed 704, 55 S Ct 147.

9. Erroneous inclusion of material, generally

Inclusion of act in United States Code of Laws does not operate as enactment. *Smiley v Holm* (1932) 285 US 355, 76 L Ed 795, 52 S Ct 397; *Koenig v Flynn* (1932) 285 US 375, 76 L Ed 805, 52 S Ct 403; *Carroll v Becker* (1932) 285 US 380, 76 L Ed 807, 52 S Ct 402.

Provision permitting direct appeal to United States Supreme Court in capital cases has been repealed notwithstanding that words of such provision have been carried in successive editions of United States Code. *Stephan v United States* (1943) 319 US 423, 87 L Ed 1490, 63 S Ct 1135.

Fact that statute is incorporated in United States Code does not show that Congress did not intend to repeal or modify it. *Ruff v Gay* (1933, DC Ga) 3 F Supp 264, revd on other grounds (1933, CA5 Ga) 67 F2d 684, affd (1934) 292 US 25, 78 L Ed 1099, 54 S Ct 608, 92 ALR 970.

10. Erroneous exclusion of material, generally

Acts omitted from Code by compilers are not repealed. *Flensburger Dampfercompagnie v United States* (1932) 73 Ct Cl 646, 59 F2d 464, cert den (1932) 286 US 564, 76 L Ed 1296, 52 S Ct 645; *Wood v National Home for Disabled Volunteer Soldiers* (1935, DC Ill) 9 F Supp 403, mod on other grounds (1936, CA7 Ill) 81 F2d 963, affd (1936) 299 US 211, 81 L Ed 130, 57 S Ct 137.

11. Substitutions in text or headings

Introductory phrase "Except as otherwise provided by law . . ." found in US Code version of Title 31, § 742 [now 31 US Code § 3124(a)] is of no effect since this phrase is not found in the statute as enacted by Congress in Revised Statute § 3701, and Statutes at Large prevail over USC whenever the two are inconsistent. *American Bank & Trust Co. v Dallas County* (1983) 463 US 855, 77 L Ed 2d 1072, 103 S Ct 3369, reh den (1983) 463 US 1250, 77 L Ed 2d 1457, 104 S Ct 39, appeal after remand (1984, Tex App Dallas) 679 SW2d 566.

Where the word "Chapter" is used in the US Code version of § 235(a) (8 USC § 1225) and duplicated in 8 USCA § 1225, in lieu of this "Act" which is the actual word used in the Statutes at Large (66 Stat 198-199), the Statute at Large version must prevail. *United States v Vivian* (1955, CA7 Ill) 224 F2d 53, cert den (1956) 350 US 953, 100 L Ed 830, 76 S Ct 340.

Use of word "act" in Statutes at Large will prevail over substitution of word "chapter" by compilers of United States Code. *United States v Vivian* (1955, CA7 Ill) 224 F2d 53, cert den (1956) 350 US 953, 100 L Ed 830, 76 S Ct 340.

Where Congress employed word "title" in referring to act containing 2 titles, and substitution for "title" of word "chapter" in compilation of Code gave act scope beyond intent of Congress, court could have construed act according to its letter as enacted. *Woner v Lewis* (1935, ND Cal) 13 F Supp 45, 17 AFTR 13, app dismd (1936, CA9 Cal) 80 F2d 1023, 17 AFTR 179.

Heading of statute written by codifiers is not part of statute. *United States v Shively* (1936, DC Va) 15 F Supp 107.

12. Effect of error on private actions and remedies

15 USCS § 15 which authorizes private action for violation of "antitrust laws," and 15 USCS § 12 which defines "antitrust laws," do not authorize private action for violation of 15 USCS § 13a even though US Code version of § 12 specifically includes § 13a as "antitrust law" for which private action may be maintained, since Clayton Act as passed by Congress defined "antitrust laws" as designated statutes existing at that time and § 13a (enacted later) was not included among those statutes. *Nashville Milk Co. v Carnation Co.* (1958) 355 US 373, 2 L Ed 2d 340, 78 S Ct 352, reh den (1958) 355 US 967, 2 L Ed 2d 542, 78 S Ct 530.

Private remedy was available for 12 USCS § 375b under 12 USCS § 503 even though US Code version of § 503 listed only §§ 375, 375a and 376 as sections subject to private remedy, since original statute as enacted by Congress did not enumerate particular provisions of the Federal Reserve Act to which it applied, but used general term "this section," referring to § 22 of that Act, and Congress had subsequently made § 375b a part of § 22 of that Act; the Statutes at Large control when the version of a law appearing in US Code is inconsistent with the original statute. *Lode v Leonardo* (1982, ND Ill) 557 F Supp 675.

§ 205. Codes and Supplements; where printed; form and style; ancillaries

The publications provided for in sections 202, 203 of this title shall be printed at the Government Printing Office and shall be in such form and style and with such ancillaries as may be prescribed by the Committee on the Judiciary of the House of Representatives. The Librarian of Congress is directed to cooperate with such committee in the preparation of such ancillaries. Such publications shall be furnished with such thumb insets and other devices to distinguish parts, with such facilities for the insertion of additional matter, and with such explanatory and advertising slips, and shall be printed on such paper and bound in such material, as may be prescribed by such committee.

(July 30, 1947, ch 388, § 1, 61 Stat. 639.)

CROSS REFERENCES

Council of the District of Columbia, 2 USCS § 285b.

13. Effect of error on criminal sanctions

Under 1 USCS § 204, savings provision for 18 USCS § 152 contained in official Statutes at Large and in Lawyers Co-Operative Edition (18 USCS § 152), is controlling even though it is not contained in official version of US Code, nor in USCA; thus, indictment under § 152 charges defendant with crime he could not have committed since under savings provision old version of § 152 controls and defendant's acts did not constitute crime under old version. *United States v Gigli* (1984, WD Pa) 37 BR 939, remanded without op (1984, CA3 Pa) 751 F2d 377, cert den (1985) 470 US 1008, 84 L Ed 2d 388, 105 S Ct 1369.

14. Placement or sequence of materials

Definitions found in section of United States Code must be confined to those sections of chapter which were contained in act of which definition clause was part before codifier rearranged them, as juxtaposition of statutory provisions as result of rearrangement in compilation of United States Code cannot have effect of altering their construction. *Warner v Goltra* (1934) 293 US 155, 79 L Ed 254, 55 S Ct 46.

Under 1 USCS § 204(a), change of arrangement in codification which places portions of what was originally single section in 2 separated sections cannot be regarded as altering scope and purpose of enactment, even where codification has been enacted into positive law. *United States v Weiden* (1964) 377 US 95, 12 L Ed 2d 152, 84 S Ct 1082.

Mere placing of section in United States Code is not controlling on issue of conditions precedent to its effect. *United States v The Pietro Campanella* (1942, DC Md) 44 F Supp 348.

Columbia on the day preceding the commencement of the session following the last session the legislation of which is included, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in their nature.

(c) **District of Columbia Code; citation.**—The Code of the District of Columbia may be cited as "D.C.Code".

(d) **Supplements to Codes; citation.**—Supplements to the Code of Laws of the United States and to the Code of the District of Columbia may be cited, respectively, as "U.S.C., Sup. ", and "D.C. Code, Sup. ", the blank in each case being filled with Roman figures denoting the number of the supplement.

(e) **New edition of Codes; citation.**—New editions of each of such codes may be cited, respectively, as "U.S.C., ed.", and "D.C.Code, ed.", the blank in each case being filled with figures denoting the last year the legislation of which is included in whole or in part.

(July 30, 1947, c. 388, 61 Stat. 638.)

United States Code Titles As Positive Law

The following titles of the United States Code have been enacted into positive law by the acts enumerated below:

- Title 1, **General Provisions**—Act July 30, 1947, ch. 388, § 1, 61 Stat. 633.
 Title 3, **The President**—Act June 25, 1948, ch. 644, § 1, 62 Stat. 672.
 Title 4, **Flag and Seal, Seat of Government, and the States**—Act July 30, 1947, ch. 389, § 1, 61 Stat. 641.
 Title 5, **Government Organization and Employees**—Pub.L. 89-554, Sept. 6, 1966, § 1, 80 Stat. 378.
 Title 6, **Surety Bonds**—Act July 30, 1947, ch. 390, § 1, 61 Stat. 646, as amended June 6, 1972, Pub.L. 92-310, Title II, § 203(4), 86 Stat. 202, and repealed Sept. 13, 1982, Pub.L. 97-258, § 5(b), 96 Stat. 1068. See, now, Title 31, **Money and Finance**.
 Title 9, **Arbitration**—Act July 30, 1947, ch. 392, § 1, 61 Stat. 669.
 Title 10, **Armed Forces**—Act Aug. 10, 1956, c. 1041, § 1, 70A Stat. 1.
 Title 11, **Bankruptcy**—Pub.L. 95-598, Title I, § 101, Nov. 6, 1978, 92 Stat. 2549.
 Title 13, **Census**—Act Aug. 31, 1954, c. 1158, 68 Stat. 1012.
 Title 14, **Coast Guard**—Act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 495.
 Title 17, **Copyrights**—Act July 30, 1947, ch. 391, § 1, 61 Stat. 652, as amended Oct. 19, 1976, Pub.L. 95-553, Title I, § 101, 90 Stat. 2541.
 Title 18, **Crimes and Criminal Procedure**—Act June 25, 1948, ch. 645, § 1, 62 Stat. 683.
 Title 23, **Highways**—Pub.L. 85-767, § 1, Aug. 27, 1958, 72 Stat. 885.
 Title 28, **Judiciary and Judicial Procedure**—Act June 25, 1948, ch. 646, § 1, 62 Stat. 869.
 Title 31, **Money and Finance**—Pub.L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.
 Title 32, **National Guard**—Act Aug. 10, 1956, c. 1041, § 2, 70A Stat. 596.
 Title 35, **Patents**—Act July 19, 1952, c. 950, § 1, 66 Stat. 792.
 Title 37, **Pay and Allowances of the Uniformed Services**—Pub.L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.
 Title 38, **Veterans' Benefits**—Pub.L. 85-857, § 1, Sept. 2, 1958, 72 Stat. 1105.
 Title 39, **Postal Service**—Pub.L. 86-682, § 1, Sept. 2, 1960, 74 Stat. 578, as revised Pub.L. 91-375, § 2, Aug. 12, 1970, 84 Stat. 719.
 Title 44, **Public Printing and Documents**—Pub.L. 90-620, § 1, Oct. 22, 1968, 82 Stat. 1238.
 Title 46, **Shipping**—
 Subtitle II, **Vessels and Seamen**—Pub.L. 98-89, § 1, Aug. 26, 1983, 97 Stat. 500.
 Title 49, **Transportation**—

Subtitle I, **Department of Transportation**—Pub.L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2413.

Subtitle II, Part C, Chap. 31, **Motor Carrier Safety**—Pub.L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2413.

Subtitle IV, **Interstate Commerce**—Pub.L. 95-473, § 1, Oct. 17, 1978, 92 Stat. 1337.

Title 26, Internal Revenue Code

The Internal Revenue Code of 1954 was enacted in the form of a separate code by Act August 16, 1954, c. 736, 68A Stat. 1. The sections of Title 26, United States Code, are identical to the sections of the Internal Revenue Code.

Cross References

Delegation of functions from time to time as directed by Congress, see section 208 of this title

Federal Rules

Proof of official records, see rule 44, Federal Rules of Civil Procedure, Title 28, Judiciary and Judicial Procedure.

West's Federal Forms

Proof of official record, see § 3940 Comment

Library References

Evidence ⇐328.
 Statutes ⇐145.
 C.J.S. Statutes §§ 85, 273 et seq., 450.

Notes of Decisions

Generally 1

Inclusion of statute in United States Code 2
Inconsistencies with Statutes at Large 5
Position of statute in United States Code 3
Prima facie evidence 4
Reviser's notes 6

1. Generally

Former section 29 of this title [now this section] contemplated the case of an offense committed while a statute forbidding it is in force, and provides that the repeal of such statute shall not prevent a prosecution for the offense, and it did not meet the case of an act unforbidden by statute at the time of its commission. *U. S. v. Bennett*, C.C.N.Y. 1874, Fed.Cas.No. 14,570.

2. Inclusion of statute in United States Code

The United States Code is only a prima facie statement of the statute law, and statutes collected in it do not change their meaning nor acquire any new force by their inclusion and if construction is necessary, recourse must be had to the original statutes themselves. *Murrell v. W. U. Tel. Co.*, C.C.A. Fla.1947, 160 F.2d 787.

Inclusion of designated sections of the Revised Statutes into codification of general and

permanent laws of United States did not have effect of re-enacting such sections of Revised Statutes. *U. S. ex rel. Boyd v. McMurry*, D.C.Ky.1933, 5 F.Supp. 515

Incorporation in United States Code of both amended Act and amendatory Act impliedly repealing portion of former Act did not show congressional purpose not to repeal or modify amended Act. *Ruff v. Gay*, D.C. Ga.1933, 3 F.Supp. 264, reversed on other grounds 67 F.2d 684, affirmed 54 S.Ct. 608, 292 U.S. 25, 78 L.Ed. 1099, 92 A.L.R. 970

Inclusion of an Act in the United States Code did not revitalize the Act if it had been repealed. *Hill v. U. S.*, 1930, 68 Ct.Cl. 740

3. Position of statute in United States Code

Change of arrangement should be given no weight where made by codifier without approval of Congress. *U. S. v. Welden*, Mass. 1964, 84 S.Ct. 1082, 377 U.S. 95, 12 L.Ed.2d 152.

No change in the meaning of a statute results from its being placed in the United States Code in juxtaposition to other statutes enacted at different times. *Warner v. Goltz*, 1914, 55 S.Ct. 46, 293 U.S. 155, 79 L.Ed. 254

It will not be inferred that Congress in revising and consolidating laws intended to

1 § 204

Note 3

change their effect unless intention is clearly expressed. *Robert E. Lee & Co. v. Veatch*, C.A.S.C. 1961, 301 F.2d 434, 96 A.L.R.2d 619.

Under sections 191 to 194 of Title 50 the mere placing of former section 193 of Title 50, authorizing the forfeiture of vessels for willful injury to them, in Title 50 with war legislation generally, was not controlling in determining whether former section 193 depended for its effectiveness upon the condition precedent of presidential proclamation of a national emergency. *U. S. v. The Pietro Campanella*, D.C.Md. 1942, 44 F.Supp. 348.

4. Prima facie evidence

The official source to find United States law is the Statutes at Large and the United States Code is only prima facie evidence of such laws. *Royer's, Inc. v. U. S.*, C.A.Pa. 1959, 265 F.2d 615.

5. Inconsistencies with Statutes at Large

If construction of section of United States Code which has not been enacted into positive law is necessary, recourse must be had to original statutes themselves. *U. S. v. Welden*, Mass. 1964, 84 S.Ct. 1082, 377 U.S. 95, 12 L.Ed.2d 152.

Under subsec. (n) of this section the United States Code cannot prevail over the Statutes at Large if the two are inconsistent. *Stephan v. U. S.*, Mich. 1943, 63 S.Ct. 1135, 319 U.S. 423, 87 L.Ed. 1490. See, also, *American Export Lines, Inc. v. U. S.*, 1961, 290 F.2d 925, 153 Ct.Cl. 201; *Balian Ice Cream Co. v. Arden Farms Co.*, D.C.Cal. 1950, 94 F.Supp. 796.

§ 205. Codes and Supplement; where printed; form and style; ancillaries

The publications provided for in sections 202, 203 of this title shall be printed at the Government Printing Office and shall be in such form and style and with such ancillaries as may be prescribed by the Committee on the Judiciary of the House of Representatives. The Librarian of Congress is directed to cooperate with such committee in the preparation of such ancillaries. Such publications shall be furnished with such thumb insets and other devices to distinguish parts, with such facilities for the insertion of additional matter, and with such explanatory and advertising slips, and shall be printed on such paper and bound in such material, as may be prescribed by such committee.

(July 30, 1947, c. 388, 61 Stat. 639.)

GENERAL PROVISIONS Ch. 3

Version of Indian Preference Act, section 472 of Title 25, in United States Code is inconsistent with the one in statutes at large and, unless it has been partially repealed, expressly or by implication, said section as it appears in statutes at large must prevail. *Preston v. Heckler*, C.A.Alaska 1984, 734 F.2d 1359.

District of Columbia Code is a codification and compilation of existing statutes, and, under this section which authorizes preparation and publication of the Code and which declares that the Code shall establish "prima facie" the laws then in force, meaning of quoted phrase is that the District of Columbia Code cannot prevail over the Statutes at Large when the two are inconsistent. *Fisher v. Capital Transit Co.*, 1957, 246 F.2d 666, 100 U.S.App.D.C. 385.

Where an inconsistency appears between the United States Code and the Statutes at Large, the Statutes at Large prevail over the Code. *Pearl v. Motor Vessel Bering Explorer*, D.C.Alaska 1974, 373 F.Supp. 927.

The code establishes prima facie what the laws of the United States are, but to extent that provisions of the Code are inconsistent with the statutes at large, the latter will prevail. *Hest Foods, Inc. v. U. S.*, Cust.Ct. 1936, 147 F.Supp. 749.

6. Reviser's notes

Reviser's notes are authoritative in interpreting United States Code. *Acron Investments, Inc. v. Federal Sav. & Loan Ins. Corp.*, C.A.Cal. 1966, 363 F.2d 236, certiorari denied 87 S.Ct. 506, 385 U.S. 970, 17 L.Ed.2d 434.

Ch. 3 CODES AND SUPPLEMENTS

1 § 207

Historical Note

Council of District of Columbia. Functions relating to the Council of the District of Columbia, see section 2 of Pub.L. 94-386, Aug. 14, 1976, 90 Stat. 1170, set out as a note under section 285h of Title 2, The Congress.

Cross References

Delegation of functions from time to time as directed by Congress, see section 208 of this title Office of the Law Revision Council, functions respecting, see section 285h of Title 2, The Congress.

Library References

Statutes ⇐144.
C.J.S. Statutes § 271 et seq.

§ 206. Bills and resolutions of Committee on the Judiciary of House of Representatives; form and style; ancillaries; curtailment of copies

All bills and resolutions relating to the revision of the laws referred to or reported by the Committee on the Judiciary of the House of Representatives shall be printed in such form and style, and with such ancillaries, as such committee may prescribe as being economical and suitable, to so continue until final enactment thereof in both Houses of Congress; and such committee may also curtail the number of copies of such bills to be printed in the various parliamentary stages in the House of Representatives.

(July 30, 1947, c. 388, 61 Stat. 639.)

Cross References

Delegation of functions from time to time as directed by Congress, see section 208 of this title

Library References

Statutes ⇐14.
C.J.S. Statutes § 24.

§ 207. Copies of acts and resolutions in slip form; additional number printed for Committee on the Judiciary of House of Representatives

The Public Printer is directed to print, in addition to the number provided by existing law, and, as soon as printed, to distribute in such manner as the Committee on the Judiciary of the House of Representatives shall determine, twenty copies in slip form of each public Act and joint resolution.

(July 30, 1947, c. 388, 61 Stat. 639.)

Cross References

Delegation of functions from time to time as directed by Congress, see section 208 of this title.

"FREEDOM OF INFORMATION ACT REQUEST"

FROM:

Freedom of Information Act Request
Chief, Disclosure Branch
Bureau of Alcohol, Tobacco and Firearms
1200 Pennsylvania Avenue, NW
Room 4406
Washington, DC 20226

Your name
Mailing address
City, State ZIP

Dear Chief:

1. This is a request under the Freedom of Information Act, 5 USC 552 and 31 CFR 1.5(g). This is my firm promise to pay fees and costs for locating and duplication the records requested below, ultimately determined by 27 CFR 71.25.

2. If portions of this request are exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a category A requestor. PLEASE EXPEDITE THIS REQUEST.

4. This request pertains to the year(s):

5. Please send me a copy of all documents maintained in the system of records identified as "Regulatory Enforcement Record System-Treasury/ATF .008, part (3) Assessment records and (3)(a) Notices of proposed assessments concerning the Requestor.

Dated:

Respectfully Submitted,

Your name , Requestor

I understand the penalties provided in 5 USC 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Your name , Requestor

NOTARY:

"FREEDOM OF INFORMATION ACT REQUEST"

FROM:

Freedom of Information Act Request
Chief, Disclosure Branch
Bureau of Alcohol, Tobacco and Firearms
1200 Pennsylvania Avenue, NW
Room 4406
Washington, DC 20226

Your name
Mailing address
City, State ZIP

Dear Chief:

1. This is a request under the Freedom of Information Act, 5 USC 552 and 31 CFR 1.5(g). This is my firm promise to pay fees and costs for locating and duplication the records requested below, ultimately determined by 27 CFR 71.25.

2. If portions of this request are exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a category A requestor. PLEASE EXPEDITE THIS REQUEST.

4. This request pertains to the year(s):

5. Please send me a copy of all documents maintained in the system of records identified as "Criminal Investigation Report System-Treasury/ATF .003, concerning the Requestor.

Dated:

Respectfully Submitted,

Your name , Requestor

I understand the penalties provided in 5 USC 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Your name , Requestor

NOTARY:

unity or the alcoholic equivalent thereof.

Rectifier. Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

Taxpaid. As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was deferred under the provisions of Subpart E of this part.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

United States. The States and the District of Columbia.

U.S.C. The United States Code.

United States Bureau of Alcohol, Tobacco and Firearms office. The Bureau of Alcohol, Tobacco and Firearms office in Puerto Rico operating under the direction of the Regional Director (Compliance), North Atlantic Region, New York, NY 10048.

Virgin Islands regulations. Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and § 250.201a.

Wine. Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of

alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13551, Mar. 31, 1978]

EDITORIAL NOTE FOR FEDERAL REGISTER citations affecting § 250.11, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart Ca—Rum Imported into the United States From Areas Other Than Puerto Rico and the Virgin Islands

§ 250.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 250.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-203, 50 FR 15888, Apr. 23, 1985]

§ 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United

from Title 27.250.11

C.F.R.

Exhibit A 1 of 1

Misapplication of Authority Under 26 USC

Regulations pertaining to seized property are found at 26 CFR Sec. 601.326:

Part 72 of Title 27 CFR contains the regulations relative to the personal property seized by officers of the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms as subject to forfeiture as being used, or intended to be used, to violate certain Federal Laws; the remission or mitigation of such forfeiture, and the administrative sale or other disposition, pursuant to forfeiture, of such seized property other than firearms seized under the National Firearms Act and firearms and ammunition seized under title 1 of the Gun Control Act of 1968. For disposal of firearms and ammunition under Title 1 of the Gun Control Act of 1968, see 18 U.S.C. 924(d). For disposal of explosives under Title XI of Organized Crime Control Act of 1970, see 18 U.S.C. 844 (c).

The only other comparable authority thus far found pertains to windfall profits tax on petroleum (26 CFR Sec. 601.405) but once again, application is not supported by regulations applicable to the several States and the population at large.

Where the provision for filing 1040 returns is concerned, the key regulatory reference is at 26 CFR Sec 601.401(d)(4), and this application appears related to "employees" who work for two or more "employers", receiving foreign-earned income effectively connected to the United States. The option of filing a 1040 return for refund is mentioned in instructions applicable to United States citizens and residents of the Virgin Islands, but to date has not been located elsewhere. Reference OMB numbers for Sec. 601.401, listed on page 170, 26 CFR, Part 600-End, cross referenced to Department of Treasury OMB numbers published in the Federal Register, November 1995, for foreign application.

The fact that 1040 tax return forms are optional and voluntary, with special application, is further reinforced by Delegation Order 182.

The "notice of levy" instrument forwarded to various third parties is not a "levy" which warrants surrender of property. The Internal Revenue Code, at Sec. 6335(a), defines the "notice" instrument by use -notice is to be served to whomever seizure has been executed against after the seizure is effected. In short, the notice merely conveys information, it is not cause for action. The term "notice" is clarified by definition in Black's Law Dictionary, 6th Edition, and other law dictionaries. *Use of the "notice of levy" instrument to effect seizure is fraud by design.*

Proper use of the "notice" process, administrative garnishment, et al, is specifically set out in 5 USC Sec 5514, as being applicable exclusively to officers, agents and employees of agencies of the United States. Even then, however, the process must comply with provisions of 31 USC Sec 3530(d), and standards set forth in Secs. 3711 & 3716-17. In accordance with provisions of 26 CFR, Part 601, Subpart D, the employer, meaning the United States agency the employee is employed by, is responsible for promulgating regulations and carrying out garnishment.

Even if IRS was the agency responsible for collecting from an "employee," due process would be required, as noted above, so authority to collect would ensue only after securing a court order from a court of competent jurisdiction, which in the several States would mean a judicial court of the State. In law, however, there is no authority for securing or issuing a Notice of Distraint premised on non-filing, bogus filing, or any other act relating to the 1040 return. The US Supreme Court has held that a judicial warrant for tax levies is necessary to protect against unjustified intrusions into privacy. The Court further held that forcible entry by IRS officials onto private premises without prior judicial authorization was also an invasion of privacy.

VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221

State of _____
County of _____

This is a Lawful Protest in the way of an Affidavit of Truth

I, _____ hereinafter Affiant, being over the age of 21, being competent to testify, having first hand knowledge of the facts, does affirm that the facts stated herein are true, correct, complete, certain, and not misleading and are stated under penalty of perjury and my full commercial liability.

1. Affiant states that _____ is not the person named on the attached "SUMMONS."
2. Affiant states that _____ is a fictitious entity created by the Internal Revenue Service.
3. Affiant is not a territorial Citizen. Affiant did not during the time in question, does not and never has lived in a territory of the United States.
4. Affiant is a Citizen of North Carolina state.
5. Affiant has never been nor wants to be a backup withholding agent under any taxpayer status. Affiant is not liable for any BMF taxable activity.
6. Affiant is not permitted to file form 1040, that is, without committing perjury.
7. Affiant has never been involved in any way shape or form with the US:UK Tax Treaty. If you have any proof whatsoever send it to the Affiant immediately.
8. Affiant is not one of your accountable Revenue Officers or employees of the so called Internal Revenue Service/IRS/internal revenue service/internal Revenue service, who has failed to account for and pay over an amount of money or property collected or received by them in connection with the Internal Revenue Laws or the Income Tax Laws.
9. Affiant has never received NOTICE from the District Director to keep records. Affiant refers to Regulations 1.6001-1d and Affiant quotes, "Notice by District Director requiring returns, statements or the keeping of records." This is gross negligence on the part of the District Director not to provide proper Notice or Warning to keep specific records. This is total denial of Due Process of Law and/or Equal Protection under the Law. One would certainly not keep Records, unless they were notified or warned to keep such Records by the District Director, so according to Regulations 1.6001-1d. The first order would be to receive notice and warning from the District Director to keep such records. Second, would be to keep the records and the third, would enable the District Director to determine whether or not such person is liable for the tax under Subtitle A of the Code. If not done in this order, there would be no point in keeping records at all.
10. Affiant has never received payment or been offered payment from the Internal Revenue Service District Director or any other Internal Revenue employee or officer for keeping records or preparing tax returns.
11. Affiant has learned that the IRS is writing secret law into its Rules and Regulations. When Affiant reads Title 26 CFR 601.601 "Rules and Regulations" (a) formulation, (1) Internal Revenue

Rules for Alcohol, Tobacco and Firearms, Rules take various forms. The most important Rules are issued as Regulation and Treasury decisions prescribed by the Commissioner (or the Director) Bureau of Alcohol, Tobacco and Firearms, as applicable, and approved by the Secretary or his delegate. Other Rule may be issued over the signature of the Commissioner (or the Director, as applicable) or the signature of any other Official, to whom authority has been delegated.

12. Affiant states that these Rules and Regulations can only be construed as SECRET LAW, which is supposed to be forbidden, especially in Tax Law.

13. Affiant has never been informed as to what other Rules may be issued over the signature of the Commissioner or what belongs to or to whom authority has been delegated.

14. Affiant states that he has been denied total Due Process of Law and that he in no way shape or form can be Prosecuted and/or Convicted under such SECRET LAW when those Rules and Regulations are written in such SECRET fashion.

15. Affiant states that there is prima facie evidence of criminal misconduct by IRS Agents that have made false entries to Affiant's Individual Master File. Affiant has found serious fraud in the current Blocking Series Codes in the Affiant's IMF's. Affiant demands an immediate investigation as to whether or not IRS Agents have tampered with Affiant's IMF by inserting incorrect codes under a Business Master File switch.

16. Affiant is refusing for Entrapment and/or Computer Fraud, all status of Backup Withholding Agent, Taxpayer, IMF, a.k.a. BMF and the OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPTS, featuring the non-master file Tax class 6 Excise Income Tax and Penalty Codes, pursuant to the F.R.C.P. 9(b).

17. Affiant states that the IRS has DIABOLICALLY used the presumed status of Backup Withholding Agent "Taxpayer" to create a presumed liability in the Blocking Series and place a (but not limited to) Non Master File Tax Class 6 Excise Income Tax and Penalty Codes, by presumption into the Affiant's Blocking Series of all IMFs a.k.a. BMFs and the OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPTS. This crime that has been committed by the IRS is spelled out completely in USC 18 1515© which states, "With intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity."

18. Affiant states that all these unlawful acts committed by the IRS has put Affiant in deep jeopardy and has forcibly induced Affiant to try to extricate himself from a phantom dilemma that in actual reality simply does not exist.

19. Affiant has given NOTICE of irregularities that the IRS Agents have committed against Affiant that makes any Criminal Investigation, Lien and or Levy OR SUMMONS unlawful until proven otherwise. It is the intention of Affiant to obey all laws that are Lawful and Constitutional and expects the IRS to do the same.

20. Affiant has discovered, that NMF Tax Class 6 Excise Income Employment Withholding Tax from Blocking Series Codes originated from the IRS procedure purported to be a Substitute for Return (SFR), claiming authority from IRC Section 6020(b), under what appears to be Philippine Tax Law which is still in the Tax Code from before the year 1948 when the Philippines was a territory of the United States governed by Congress. IRS procedures have no authority or force of law, this nullifies your SUMMONS.

21. Affiant states that the IRS's silence on these matters fits the definition of "FRAUD" in Blacks

Law Dictionary, Sixth-Edition. Specifically "Anything calculated to deceive, whether by a single act or combination, or by suppression of truth. --by speech or silence--" appears to apply. Such behavior has been addressed in *Carmine V. Bowen* 64 AT. 932 as "Silence" is species of conduct, and constitutes an implied representation of the existence of facts in question--when silence is of such character and under such circumstances that it would become FRAUD--it will operate as estoppel.

22. Affiant states that it was grave error for the IRS to ignore the Affiant party's many correspondence, pursuant to the policy published in Title 5, USC Section 552a (Administration Procedures Act) Publication 594 and IR Manual Handbook Policy, P-6-12, requires the Commissioner to answer all inquires from the public. By ignoring such correspondence, an erroneous Indictment and Summons has been issued.

23. Affiant states that the United States Attorney's Manual II, 6-4.270, reveals the United States Attorney has limited responsibility to prosecute offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin operated gambling and amusement machines... Affiant is not involved in any of these taxable activities relevant to Affiant. If any one can prove that Affiant is involved in one of these activities please send it to Affiant immediately.

24. Affiant states that 18 USC 3613 reveals that the Attorney General, alias the Secretary, administers, enforces and authorizes regulations for 26 CFR 6323, 6331, 6332, 6334, 6335, 6336, 6337(a), 7402, 7403, 7424, 7425, 7426, 7505(a), 7506, 7701, 7805 and 50 USC Section 511. Affiant has never received any documents approving the regulations prescribed by the Attorney General relevant to 18 USC 3613 and Affiant does not fall under any of these classifications.

25. Affiant states that no valid assessment has ever been made to the Affiant by the IRS for any taxes that Affiant supposedly owes.

26. Affiant was not during the time in question, is not and never has been a "person required by Title 26, United States Code, Section 6012 to file a tax return..."

27. Affiant was not during the time in question, is not and never has been engaged in any business or activity involving the manufacture or sale of Alcohol, Tobacco, or Fire Arms.

28. Affiant does not, did not during the time in question and never has owned or operated a business in a territory of the United States.

29. Affiant does not understand these charges. Affiant has repeatedly expressed his desire to comply with all laws that apply to him. Affiant has repeatedly asked the Internal Revenue Service to tell him if he is legally required to file a tax return and if so, to provide the required form. The Internal Revenue Service has not provided such a form, provided full disclosure, or shown Affiant any law requiring Affiant to file a tax return, thus violating their basic fiduciary obligations.

30. Affiant has searched and found that the only form required by Title 26, CFR 1.1-1 is form 2555 with current OMB number 15450067. Affiant has no books or records relevant to form 2555 with the current OMB number 15450067.

31. Affiant states that the charges do not specify what kind of form or return was allegedly not filed.

32. Affiant does not understand what kind of alleged violation is being addressed here. The attached SUMMONS says "Charging you with a violation of Title 26 United States Code, Section

7203", which would be a Revenue Law violation. The SUMMONS then says "Income Tax violation." This is FRAUD.

33. Affiant does not understand. is the alleged violation a Subtitle A Income Tax violation?

34. Affiant has researched Title 26 United States Code, Section 7203 and cannot find the implementing regulation for Title 26 United States Code, Section 7203.

35. Affiant was not called before a GRAND JURY. Affiant therefore did not have any input in that proceeding or opportunity to give rebuttal testimony.

36. Affiant's signature does not appear on any contract with the Internal Revenue Service.

37. Affiant is not a party to this case.

38. The attached SUMMONS and BILL OF INDICTMENT was given to Affiant's wife on Tuesday, October 27, 1998. Affiant, therefore, was not provided with reasonable or sufficient time in which to prepare an answer.

39. Affiant states that this action is being directed or perpetrated by the International Monetary Fund.
See Title 22 USC Section 286.

40. Affiant states that Internal Revenue or IRS special agents only have authority to investigate ATF violations.

41. Affiant states that there is no valid reason for the attached SUMMONS and BILL OF INDICTMENT to be issued. Affiant demands a valid reason for this indictment and not just good cause.

42. Affiant states that neither the attached SUMMONS or BILL OF INDICTMENT was signed by a judge.

43. Affiant has never violated the National Prohibition Act, which was repealed in 1934 and was extended to the U.S. Virgin Islands and Puerto Rico in 1935. It was then classified to Title 26 in 1939 as evidenced by U.S. Code Title 48, Section 1402.

44. Affiant has never received a form 5546 from the IRS which will show that the IRS is deceptively using an excise activity for their fraudulently alleged charges.

45. Affiant refuses the attached SUMMONS and BILL OF INDICTMENT for fraud.

25. Affiant demands that the attached BILL OF INDICTMENT be quashed for KNOWN fraud.

26. Affiant further sayeth naught.

Notary: _____
State of _____)
County) ss

This is a rough draft copy and will need to be customized to your situation. We want to expand this so please give us your input.

United States District Court

WESTERN DISTRICT OF NORTH CAROLINA

The federal entry defined by Article 4 Section 5 Clause 17

9800721 01 8:03

UNITED STATES OF AMERICA

CHARLOTTE, NC. SUMMONS IN A CRIMINAL CASE

[Redacted]
Not my name

(Name and Address of Defendant)
Circle

Stoney

CASE NUMBER:

5:98C

✓

You are hereby put on NOTICE that this letter must be filed as a permanent copy of my IRS/IDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

YOU ARE HEREBY SUMMONED to appear before the United States District Court at the place, date and time set forth below.

Place	Charles R. Jonas Federal Building 401 W. Trade Street Charlotte, NC	Room Magistrate's Courtroom - 1st floor
Before:	U. S. Magistrate Judge McKnight	Date and Time Tuesday Nov. 3, 1998, 2:00 PM

To answer a(n)
 Indictment Information Complaint Violation Notice Probation Violation Petition

Charging you with a violation of Title 26 United States Code, Section(s) 7203

Brief description of offense:

Income Tax violation

Failure to file tax return

what income tax violation

what return must identify

The IRS has no enforcement powers only ATF, ~~IRS~~, Customs, U.S. Secret Service and Federal Law Enforcement Training Center

Susan M. Johnson
Signature of Issuing Officer Deputy Clerk

FRANK G. JOHNS, CLERK

Name and Title of Issuing Officer

Oct. 19, 1998
Date

A True Copy, Teste:

Frank G. Johns, Clerk

By Susan M. Johnson
Deputy Clerk

which one of the 7 different IRS is it trying to do this?

PHONE NO.

Can only hear a territorial violation

FILE
CHARLOTTE,

RECEIVED
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

ES OCT 21 11 09 AM '95

OCT 7 1995

WESTERN DISTRICT OF
CHARLOTTE, N.C.

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA

DOCKET NO. 5:98CR277

Not my name vs. [Redacted]

BILL OF INDICTMENT
Vio: 26 U.S.C. § 7203
NO implentis regul

THE GRAND JURY CHARGES:

Not the Grand Jury
for the United States
of America (50st)

COUNT ONE

On or about August 15, 1995, in Stony Point, Alexander County, within the Western District of North Carolina,

[Redacted] Not my name

a person required by Title 26, United States Code, Section 6012 to file a tax return for calendar year 1994, did willfully fail to file such return, in violation of Title 26, United States Code, Section 7203. Fraud for ATF only

COUNT TWO

On or about April 15, 1996, in Stony Point, Alexander County, within the Western District of North Carolina,

[Redacted] Not my name

a person required by Title 26, United States Code, Section 6012 to file a tax return for calendar year 1995, did willfully fail to file such return, in violation of Title 26, United States Code, Section 7203. Fraud for ATF only

A TRUE BILL

You are hereby notified that the grand jury...
The grand jury...
The grand jury...
The grand jury...

Barbara C. Givens
FOREMAN

FILED IN OPEN COURT
OCT 6 1998
CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA


BILL OF INFORMATION FOR MISPRISION OF A FELONY

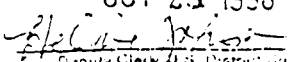
UNITED STATES OF AMERICA * CRIMINAL DOCKET NO: 98-140-A-M
v. * SECTION:
EDWARD J. DEBARTOLO, JR. * VIOLATION: 18 USC § 4
* * *

COUNT 1

During the period of June 1996 through July 1997, in the Middle District of Louisiana and elsewhere, EDWARD J. DEBARTOLO, JR., having knowledge of the actual commission by Edwin W. Edwards and others of felonies cognizable by a court of the United States, to wit: extortion and fraudulent conduct, in violation of Title 18, United States Code, Sections 1951, 1341, 1343, and 1346, did willfully conceal the same, and did not make known the commission of said felonies as soon as possible to any judge or other person in civil or military authority.

All in violation of Title 18, United States Code, Section 4.


EDDIE J. JORDAN, JR.
UNITED STATES ATTORNEY
Bar Roll No. 1450

CLERK'S OFFICE
A TRUE COPY
OCT 23 1998

Deputy Clerk, U.S. District Court
Middle District of Louisiana
Baton Rouge, La.

JVP USM
ML USProb
DLD USA-Jordan



3:98-cr-00140 1 - 1

DATE: 10/06/98

DEPUTY CLERK: KC

usc Section 4
Title 18 ⁴ Complaint / Affidavit of Truth

I, _____ hereinafter Affiant, being over the age of 21, being competent to testify, having first hand knowledge of the facts, does affirm that the facts stated herein are true, correct, complete, certain, and not misleading and are stated under penalty of perjury and my full commercial liability.

1. Affiant has never received NOTICE from the District Director to keep records. Affiant refers to Regulations 1.6001-1d and Affiant quotes, "Notice by District Director requiring returns, statements or the keeping of records." This is gross negligence on the part of the District Director not to provide proper Notice or Warning to keep specific records. This is total denial of Due Process of Law and/or Equal Protection under the Law. One would certainly not keep Records, unless they were notified or warned to keep such Records by the District Director, so according to Regulations 1.6001-1d. The first order would be to receive notice and warning from the District Director to keep such records. Second, would be to keep the records and the third, would enable the District Director to determine whether or not such person is liable for the tax under Subtitle A of the Code. If not done in this order, there would be no point in keeping records at all.

2. Affiant has never received payment or been offered payment from the Internal Revenue Service District Director or any other Internal Revenue employee or officer for keeping records or preparing tax returns.

3. Affiant has learned that the IRS is writing secret law into its Rules and Regulations. When Affiant reads Title 26 CFR 601.601 "Rules and Regulations" (a) formulation. (1) Internal Revenue Rules for Alcohol, Tobacco and Firearms, Rules take various forms. The most important Rules are issued as Regulation and Treasury decisions prescribed by the Commissioner (or the Director) Bureau of Alcohol, Tobacco and Firearms, as applicable, and approved by the Secretary or his delegate. Other Rule may be issued over the signature of the Commissioner (or the Director, as applicable) or the signature of any other Official, to whom authority has been delegated.

4. Affiant states that these Rules and Regulations can only be construed as SECRET LAW, which is supposed to be forbidden, especially in Tax Law.

5. Affiant has never been informed as to what other Rules may be issued over the signature of the Commissioner or what belongs to or to whom authority has been delegated.

6. Affiant states that Affiant has been denied total Due Process of Law and that Affiant in no way shape or form can be Prosecuted and/or Convicted under such SECRET LAW when those Rules and Regulations are written in such SECRET fashion.

7. Affiant states that there is prima facie evidence of criminal misconduct by IRS Agents that have made false entries to Affiant's Individual Master File. Affiant has found serious fraud in the current Blocking Series Codes in the Affiant's IMF's. Affiant demands an immediate investigation as to whether or not IRS Agents have tampered with Affiant's IMF by inserting incorrect codes under a Business Master File switch.

8. Affiant has reason to suspect that the IRS is attempting Entrapment and/or committing Computer

Fraud, in the status of Backup Withholding Agent, Taxpayer, IMF, a.k.a. BMF and the OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPTS, featuring the non-master file Tax class 6 Excise Income Tax and Penalty Codes, pursuant to the F.R.C.P. 9(b).

9. Affiant states that the IRS has DIABOLICALLY used the presumed status of Backup Withholding Agent "Taxpayer" to create a presumed liability in the Blocking Series and place a (but not limited to) Non Master File Tax Class 6 Excise Income Tax and Penalty Codes, by presumption into the Affiant's Blocking Series of all IMFs a.k.a. BMFs and the OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPTS. This crime that has been committed by the IRS is spelled out completely in USC 18 1515© which states, "With intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity."

10. Affiant states that all these unlawful acts committed by the IRS have put Affiant in deep jeopardy and have forcibly induced Affiant to try to extricate himself from a phantom dilemma that in actual reality simply does not exist.

11. Affiant has given NOTICE of irregularities that the IRS Agents have committed against Affiant that makes any Criminal Investigation, Lien and or Levy OR SUMMONS unlawful until proven otherwise. It is the intention of Affiant to obey all laws that are Lawful and Constitutional and Affiant expects the IRS to do the same.

12. Affiant has discovered, that NMF Tax Class 6 Excise Income Employment Withholding Tax from Blocking Series Codes originated from the IRS procedure purported to be a Substitute for Return (SFR), claiming authority from IRC Section 6020(b), under what appears to be Philippine Tax Law which is still in the Tax Code from before the year 1948 when the Philippines was a territory of the United States governed by Congress. IRS procedures have no authority or force of law, this nullifies your SUMMONS which was apparently issued without due process of law.

13. Affiant states that the IRS's silence on these matters fits the definition of "FRAUD" in Blacks Law Dictionary, Sixth-Edition. Specifically "Anything calculated to deceive, whether by a single act or combination, or by suppression of truth, --by speech or silence--" appears to apply. Such behavior has been addressed in Carmine V. Bowen 64 AT. 932 as "Silence" is species of conduct, and constitutes an implied representation of the existence of facts in question--when silence is of such character and under such circumstances that it would become FRAUD--it will operate as estoppel.

14. Affiant states that it is a grave error for the IRS to ignore the Affiant party's many correspondence, pursuant to the policy published in Title 5, USC Section 552a (Administration Procedures Act). Publication 594 and IR Manual Handbook Policy, P-6-12, requires the Commissioner to answer all inquires from the public. By ignoring such correspondence, an erroneous INDICTMENT and SUMMONS has been issued.

15 Affiant states that the United States Attorney's Manuel II, 6-4.270, reveals the United States Attorney has limited responsibility to prosecute offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin operated gambling and amusement machines... Affiant is not involved in any of these taxable activities. If any one can prove that Affiant is involved in one of these activities please send such proof to Affiant immediately.

16. Affiant states that 18 USC 3613 reveals that the Attorney General, alias the Secretary, administers, enforces and authorizes regulations for 26 CFR 6323, 6331, 6332, 6334, 6335, 6336, 6337(a), 7402, 7403, 7424, 7425, 7426, 7505(a), 7506, 7701, 7805 and 50 USC Section 511. Affiant has never received any documents approving the regulations prescribed by the Attorney

General relevant to 18 USC 3613 and Affiant does not fall under any of these classifications

17. Affiant states that no valid assessment has ever been made to the Affiant by the IRS for any taxes allegedly owed but action was taken as though such assessment had been made.

18. Affiant was not during the time in question, is not and never has been a "person required by Title 26, United States Code, Section 6012 to file a tax return..." The IRS had knowledge of this fact but action was taken which led to the issuance of an erroneous INDICTMENT and SUMMONS.

19. Affiant was not during the time in question, is not and never has been engaged in any business or activity involving the manufacture or sale of Alcohol, Tobacco, or Fire Arms. The IRS had knowledge of this fact but action was taken which led to the issuance of an erroneous INDICTMENT and SUMMONS.

20. Affiant does not, did not during the time in question and never has owned or operated a business in a territory of the United States. The IRS had knowledge of this fact but action was taken which led to the issuance of an erroneous INDICTMENT and SUMMONS.

21. Affiant has repeatedly asked the Internal Revenue Service to tell him if he is legally required to file a tax return and if so, to provide the required form. The Internal Revenue Service has not provided such a form, provided full disclosure, or shown Affiant any law requiring Affiant to file a tax return, thus violating their basic fiduciary obligations.

22. Affiant states that the charges listed on the INDICTMENT do not specify what kind of form or return was allegedly not filed.

23. Affiant states that the attached SUMMONS contradicts its self by saying "Charging you with a violation of Title 26 United States Code, Section 7203", which would be a Revenue Law violation. The SUMMONS then says "Income Tax violation." This is FRAUD.

24. Affiant does not understand if the alleged violation a Subtitle A Income Tax violation or some other type.

25. Affiant has researched Title 26 United States Code, Section 7203^{CR} and cannot find the implementing regulation for Title 26 United States Code, Section 7203. However the IRS is apparently trying to enforce it as though it were law.

26. Affiant was not called before a GRAND JURY. Affiant therefore did not have any input in that proceeding or opportunity to give rebuttal testimony.

27. Affiant states that Internal Revenue or IRS special agents only have authority to investigate ATF violations.

28. Affiant states that there is no valid reason for the attached SUMMONS and BILL OF INDICTMENT to be issued.

29. Affiant states that neither the attached SUMMONS or BILL OF INDICTMENT was signed by a judge.

30. Affiant has never violated the National Prohibition Act, which was repealed in 1934 and was extended to the U.S. Virgin Islands and Puerto Rico in 1935. It was then classified to Title 26 in 1939 as evidenced by U.S. Code Title 48, Section 1402. However, the IRS is apparently using this act as though it applied to Affiant

31. Affiant has never received a form 5546 from the IRS which will show that the IRS is deceptively using an excise activity for their fraudulently alleged charges.

32. Affiant further sayeth naught.

Take notice that this is a Rough Draft
and has not had the finishing touches added
as of yet. You shall see what we are trying
to achieve. Please send us back your input
as we want different people helping on this.

FREEDOM OF INFORMATION ACT REQUEST

Assistant Commissioner (International)
Internal Revenue Service
950 L'Enfant Plaza South, SW
Fourth Floor
Washington, DC 20224

Your Name
Mailing Address
City, State, Zip
SS# 000-00-0000

Dear Commissioner:

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 601.701(f).
2. If some of this request is exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years:
5. BACKGROUND FOR ITEM #6: Failure to file records and failure to pay tax records are maintained by the Assistant Commissioner (International), as evidenced by System of Records Treasury / IRS 49.007, a copy of which is attached hereto and incorporated herein as **EXHIBIT A**.
6. Please send Requester a copy of all documents maintained in Overseas Compliance Projects System-Treasury / IRS 49.007(2) and (4), which pertains to (your name).
7. Please send Requester a copy of the blank forms applicable to the failure to file investigations. Please mark the blank forms "VOID" or otherwise invalidate the forms prior to disclosure.

Dated:

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/DA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

Respectfully,

Your Name, Requester

I understand the penalties provided in 5 USC 552a(i)(3) for

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

System name:
Financial Statements File—Treasury/IRS.

System location:
Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Categories of individuals covered by the system:
Taxpayers who submitted financial statements when interviewed overseas by Examination Branch employees.

Categories of records in the system:
Financial Statements.

Authority for maintenance of the system:
5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records.

Retrievability:
By taxpayer's name.

Safeguards:
Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal:
Dispose after 2 years. Auth: IRM 1(15)59.

System manager(s) and address:
Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Notification procedure:
Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries may be addressed to the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Record access procedures:
Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (International).

Contesting record procedures:
26 U.S.C. 7852(c) prohibits Privacy Act amendment of tax records.

Record source categories:
Overseas Examination Branch employees.

Systems exempted from certain provisions of the act:
None.

Treasury/IRS 49.007

System name:
Overseas Compliance Projects System—Treasury/IRS.

System location:
The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Riyadh, Saudi Arabia; (5) Nassau, Bahamas; (6) London, England; (7) Manila, Philippines; (8) Mexico City, Mexico; (9) Ottawa, Canada; (10) Paris, France; (11) Rome, Italy; (12) Sao Paulo, Brazil; (13) Singapore and (14) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Assistant Commissioner (International).

Categories of individuals covered by the system:
United States Citizens, Resident Aliens, Nonresident Aliens.

Categories of records in the system:

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from state and gift tax returns.

Authority for maintenance of the system:
5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records.

Retrievability:
By Taxpayer Name.

Safeguards:
Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal:
Dispose after 3 years. Auth: IRM 1(15)59.

System manager(s) and address:
Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Notification procedure:
This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures:
This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures:
26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

Record source categories:
Documents and data relating to income and expense items concerning income, Estate and Gift tax returns.

Systems exempted from certain provisions of the act:
This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

System name:
Taxpayer Service Correspondence System—Treasury/IRS.

System location:
This system is separately maintained by each one of the 14 overseas posts of the Office of the Assistant Commissioner (International) located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Riyadh, Saudi Arabia; (5) Nassau, Bahamas; (6) London, England; (7) Manila, Philippines; (8) Mexico City, Mexico; (9) Ottawa, Canada; (10) Paris, France; (11) Rome, Italy; (12) Sao Paulo, Brazil; (13) Singapore and (14) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

Categories of individuals covered by the system:
United States Citizens, Resident Aliens, Nonresident Aliens.

Categories of records in the system:
Correspondence from taxpayers, foreign post personnel and the Office of the Assistant Commissioner (International) headquarters offices in Washington, DC.

Authority for maintenance of the system:
5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records.

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Freedom of Information Act Request Attorney General-Failure to File

A request to the Department of Justice of the United States?

Sure. Absolutely. Must do.

The authority of the United States Attorney to prosecute tax cases investigated by the IRS is extremely limited. The authority is revealed in the US Attorney's Manual Volume II, Title 6-4.270.

6.4-270 is not the only authority delegated to the United States Attorney to prosecute tax cases. But it is the only authority to prosecute tax cases that are investigated by the IRS.

Do not confuse the term "IRS" with the term "Internal Revenue Service".

Assume the US Attorney will admit that no such record exists pertaining to you. An admission that no record exists is very good news and indicates that you are not subject to criminal tax prosecution.

Wayne Bentson's Cincinnati, Ohio 2 day Seminar

9 Audios
4 Videos
Paperwork

150⁰⁰

FREEDOM OF INFORMATION ACT REQUEST

US Department of Justice
940 Pennsylvania Avenue NW
Room LOC 115
Washington, DC 20530

Your Name
Mailing Address
City, State, Zip

Dear Sir:

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 rules and regulations.

2. If some of this request is exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a commercial requester. PLEASE EXPEDITE THIS REQUEST.

4. This request pertains to the years:

5. BACKGROUND FOR ITEM #6: 26 CFR 601.601(a)(1) reveals that "other rules may be issued over the signature of the commissioner (or director, as applicable) or the signature of any other official to whom authority has been delegated." A copy of 26 CFR 601.601(a)(1) is attached hereto and incorporated herein as **EXHIBIT A**.

6. Please send Requester a copy of the organizational and/or flow chart for "any other official" pertaining to paragraph 5 above.

Dated:

Respectfully,

Your Name, Requester

I understand the penalties provided in 5 USC 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Your Name, Requester

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/DA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

paragraphs (c) (3) and (4) of §601.502, are applicable to such authorizations under this section.

4/12/69.

§ 601.524 Execution and filing powers of attorney and tax information authorizations.

(a) Time of filing. A copy of the power of attorney must be filed in each office (that is, office of a regional regulatory administrator and Office of the Director, Bureau of Alcohol, Tobacco, and Firearms), in which a document specified in §601.522, covered by the power of attorney, is required to be filed, or in which the representative desires to perform one or more of the acts enumerated in paragraph (c)(1) of § 601.502. If a power of attorney covering an act otherwise requiring the filing of a tax information authorization has not been filed, a copy of the tax information authorization must be filed in each office in which the representative inspects or receives confidential information, or, where acts requiring a power of attorney or a tax information authorization are handled by correspondence, the representative should enclose a copy of the power or authorization with the initial correspondence. However, where a power of attorney or tax information authorization is on file with the regional regulatory administrator in the Bureau of Alcohol, Tobacco, and Firearms, an additional copy thereof will not be required in the office of the regional counsel of the same region.

(b) Execution. The power of attorney required by §601.522, or tax information authorization required by §601.523, shall be executed in the manner prescribed in paragraph (b) of §601.504; shall indicate all acts to which it relates; should contain the mailing address of the representative; and, if more than one representative is authorized to perform the same acts on behalf of the industry member or other person, a designation as to which representative is to receive notices and other written communications. For rules relating to the mailing of notices or other written communications to a representative, see § 601.506.

(c) Attestation and corporate seal. In the case of a corporation, a power of attorney filed with an officer of the Bureau of Alcohol, Tobacco, and Firearms must be attested by the secretary and the corporate seal must be affixed. If the officer who signs the power of attorney is also the secretary, another officer of the corporation, preferably the president, vice president, or treasurer, must also sign the power of attorney so that two different individual signatures appear thereon. If the corporation has no seal, a certified copy of a resolution duly passed on by the board of directors of the corporation authorizing the execution of powers of attorney should be attached.

(d) Acknowledgment. A power of attorney filed with an office of the Bureau of Alcohol, Tobacco, and Firearms must be acknowledged, witnessed, or certified as provided in paragraph (d) of §601.504.

11/22/67, amend. 4/12/69, 2/1/80.

§ 601.525 Certification of copies of documents.

The provisions of paragraph (c) of §601.504 with respect to certification of copies are applicable to a power of attorney or a tax information authorization required to be filed under §601.522 or §601.523.

2/15/93

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§ 601.526 Revocation of powers of attorney and tax information authorizations.

The revocation of the authority of a representative covered by a power of attorney or tax information authorization filed in an office of the Bureau of Alcohol, Tobacco, and Firearms shall in no case be effective prior to the giving of written notice to the proper official that the authority of such representative has been revoked.

4/12/69, 2/1/80.

§ 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

The provisions of paragraph (b) of §601.505, and of §§601.506 through 601.508 of this subpart, as applicable, shall be followed in offices of the Bureau of Alcohol, Tobacco, and Firearms.

4/12/69, amend. 9/19/69, 2/1/80.

§ 601.601 Rules and regulations.

(a) Formulation. (1) Internal revenue rules [or alcohol, tobacco, and firearms rules] take various forms. The most important rules are issued as regulations and Treasury decisions prescribed by the Commissioner [or the Director, Bureau of Alcohol, Tobacco, and Firearms, as applicable,] and approved by the Secretary or his delegate. Other rules may be issued over the signature of the Commissioner [or the Director, as applicable,] or the signature of any other official to whom authority has been delegated. [The channeling of rules varies with the circumstances.] Regulations and Treasury decisions, [except those relating to alcohol, tobacco, and certain firearms,] are prepared in the Office of the Chief Counsel. [Alcohol, tobacco, explosives, and certain firearms regulations and Treasury decisions are prepared in the Office of the Regulations and Procedures Division and reviewed in the Office of the Chief Counsel, Bureau of Alcohol, Tobacco, and Firearms.] After approval by the Commissioner [or the Director], [as applicable (and, in the case of regulations relating to narcotics and certain regulations relating to alcohol and tobacco taxes, the approval of the Commissioner of Narcotics or the Commissioner of Customs, as the case may be,)] regulations and Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval.

(2) Where required by 5 U.S.C. 553 and in such other instances as may be desirable, the Commissioner [or the Director, as applicable,] publishes in the FEDERAL REGISTER general notice of proposed rules (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law). This notice includes (i) a statement of the time, place, and nature of public rulemaking proceedings; (ii) reference to the authority under which the rule is proposed; and (iii) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(3)(i) This subparagraph shall apply where the rules of this subparagraph are incorporated by reference in a notice of hearing with respect to a notice of proposed rule making.

(ii) A person wishing to make oral comments at a public hearing to which this subparagraph applies shall file his written comments within the time prescribed by the notice of proposed rule making (including any extensions thereof) and submit the outline referred to in subdivision (iii) of this subparagraph within the time prescribed by the notice of hear-

27,131

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies. Recorders Initial _____

FREEDOM OF INFORMATION ACT REQUEST

US Department of Justice
940 Pennsylvania Avenue NW
Room LOC 115
Washington, DC 20530

Your Name
Mailing Address
City, State, Zip

Dear Sir:

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 rules and regulations.

2. If some of this request is exe,pt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a commercial requester. PLEASE EXPEDITE THIS REQUEST.

4. This request pertains to the year(s):

5. BACKGROUND FOR ITEM #6: 18 USC 3613 reveals that the Attorney General, alias the Secretary, administers, enforces and authorizes regulations for 26 CFR 6323, 6331, 6332, 6334 through 6336, 6337(a), 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, 7805 and 50 USC Section 511. A copy of 18 USC 3613 is attached hereto and incorporated herein as **EXHIBIT A**.

6. Please send Requester a copy of the document(s) approving the regulations prescribed by the Attorney General relevant to 18 USC 3613 above.

Dated:

Respectfully,

Your Name, Requester

I understand the penalties provided in 5 USC 552a(i)(3) for requesting or obtaining access to records under false pretenses.

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

Your Name, Requester

notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

(e) **Alternative enforcement.** Notwithstanding any other provision of this section, a judgment imposing a fine may be enforced by execution against the property of the person fined in like manner as judgments in civil cases, but in no event shall liability for payment of a fine extend beyond the period specified in subsection (b).

(f) **Discharge of debts inapplicable.** No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable or discharge liability to pay a fine.

(Added Oct. 12, 1984, P. L. 98-473, Title II, Ch II, § 212(a)(2), 98 Stat. 2005.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

With regard to the references in this section to the Internal Revenue Code of 1954, section 2 of P. L. 99-514, 100 Stat. 2095, provides:

“(a) Redesignation of 1954 Code. The Internal Revenue Title enacted August 16, 1954, as heretofore, hereby, or hereafter amended, may be cited as the ‘Internal Revenue Code of 1986’.

“(b) References in Laws, Etc. Except when inappropriate, any reference in any law, Executive order, or other document—

“(1) to the Internal Revenue Code of 1954 shall include a reference to the Internal Revenue Code of 1986, and

“(2) to the Internal Revenue Code of 1986 shall include a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.”

Explanatory notes:

A prior § 3613 (Act June 25, 1948, ch 645, § 1, 62 Stat. 840) was repealed by Act Oct. 12, 1984, P. L. 98-473, Title II, Ch II, § 212(a)(2), 98 Stat. 1987, effective on the first day of the first calendar month beginning 36 months after enactment as provided by § 235(a)(1) of such Act, as amended, which appears as 18 USCS § 3551 note, and applicable as provided by such § 235, which appears as 18 USCS § 3551 note. This section provided for fines for setting grass and timber fires.

Effective date of section:

Act Oct. 12, 1984, P. L. 98-473, Title II, Ch II, § 235(a)(1), 98 Stat. 2031, as amended, which appears as 18 USCS § 3551 note, provides that this section is effective on the first day of the first calendar month beginning 36 months after enactment.

Other provisions:

Application of section. For application of this section, see Act Oct. 12, 1984, P. L. 98-473, Title II, Ch II, § 235, 98 Stat. 2031, as amended, which appears as 18 USCS § 3551 note.

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

FREEDOM OF INFORMATION ACT REQUEST

US Department of Justice
940 Pennsylvania Avenue NW
Room LOC 115
Washington, DC 20530

Your Name
Mailing Address
City, State, Zip
DOB: (date of birth)

Dear Sir:

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 rules and regulations.

2. If some of this request is exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a commercial requester. PLEASE EXPEDITE THIS REQUEST.

4. this request pertains to the years:

5. BACKGROUND FOR ITEM #6: The United States Attorney's Manual II, 6-4.270, reveals the United States Attorney has limited responsibility to prosecute offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin operated gambling and amusement machines. . . .A copy of the United States Attorney's Manual II, Title 6-4.270 is attached hereto and incorporated herein by reference as **EXHIBIT A**.

6. Please send Requester a copy of the documents indicating the requester is/was involved in a taxable activity relevant to **EXHIBIT A**.

Dated:

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have,has been deleted or substituted, this demand still applies.
Recorders Initial _____

Respectfully,

Your Name, Requester

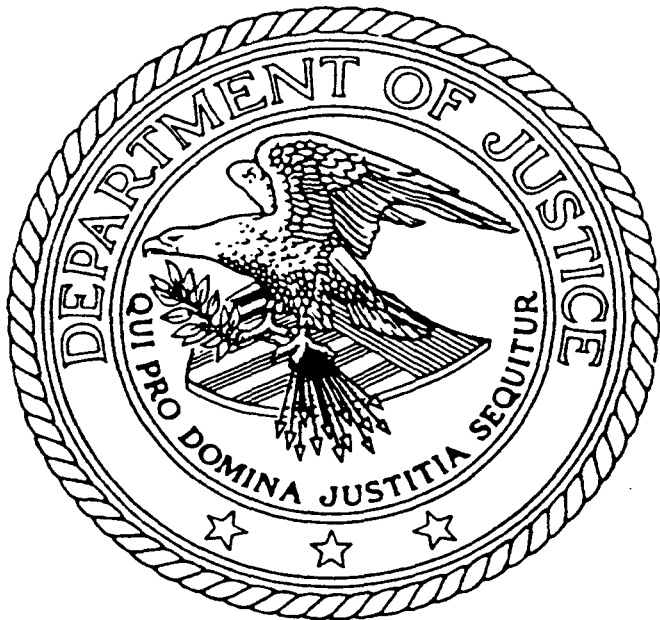
I understand the penalties provided in 5 USC 552a(I) (3) for requesting or obtaining documents under false pretenses.

(NOTARY)

Your Name, Requester

United States Attorneys' Manual

Volume II



You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

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Title 4, Civil Division
 Title 5, Land and Natural Resources Division
 Title 6, Tax Division
 Title 7, Antitrust Division
 Title 8, Civil Rights Division

1988

This Manual is issued by, and remains the property of, the United States Department of Justice

Title 6

Tax Division

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

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SUMMARY
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6-1.000 POLICY

6-2.000 PRIOR APPROVALS

6-3.000 ORGANIZATION OF DIVISION

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6-5.000 CIVIL TAX CASE PROCEDURES

6-6.000 COMPROMISES AND CONCESSIONS

6-7.000 POST-LITIGATION UNIT

6-8.000 POST-JUDGMENT COLLECTION MATTERS

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
Recorders Initial _____

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- A. A copy of the indictment returned (or no billed), or the information filed, which reflect the date of the return (or no bill) or filing;
- B. Date of arraignment and kind of plea;
- C. Date of trial;
- D. Verdict and date verdict returned;
- E. Date and terms of sentence; and
- F. Date of appeal and appellate decision.

It is important that information regarding developments in pending cases be provided to the Tax Division in a timely manner in order that the Department's files reflect the true case status and so that, upon completion of the criminal case, the case can be timely closed and returned to the IRS for the collection of any revenue due through civil disposition.

6-4.249 Return of Reports and Exhibits

Upon completion of a criminal tax prosecution by a final judgment and the conclusion of appellate procedures, the U.S. Attorney should return to witnesses their exhibits. Grand jury materials should be retained by the U.S. Attorney under secure conditions, in accordance with the requirements of maintaining the secrecy of grand jury material. See Fed.R.Cr.P. 6(e). All non-grand jury reports, exhibits, and other materials furnished by the IRS for use in the investigation or trial should be returned by certified mail, return receipt requested, to the appropriate District Director, IRS, Attention: Chief, CID, as directed in the Tax Division's letter authorizing prosecution or as directed by Regional Counsel in cases directly referred to the U.S. Attorney.

6-4.270 Criminal Division Responsibility

The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-operated gambling and amusement machines; malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws; and unauthorized mutilation, removal or misuse of stamps. See 28 C.F.R. § 0.70.

6-4.300 TAX DIVISION POLICIES REGARDING CASE DISPOSITION AND SENTENCING

6-4.310 Major Count(s) Policy/Plea Agreements

The overwhelming percentage of all criminal tax cases are disposed of by entry of a plea of guilty. In most cases, the transmittal letter forwarding

October 1, 1988

16

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
 Recorder's Initial: _____

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FREEDOM OF INFORMATION ACT REQUEST
REQUEST FOR NOTIFICATION AND ACCESS

Director
Internal Revenue Service Center

« 1» « 2»
« 3»
« 4»

Dear Sir:

1. This is a request under the Freedom of Information Act, 5 U.S.C. Section 552 and 26 U.S.C. 6103. This is my firm promise to pay fees for locating and duplicating the documents and information requested below.

2. If some of this request is exempt, please furnish those portions reasonably segregable, and provide an indexing, itemization and detailed justification concerning information which you are not releasing.

3. This request pertains to the years: « 5».

4. Please send a copy of: 1) the delegation of authority order from the to one , in the office; and, 2) the Delegation of Authority from the Secretary of the Treasury to the and all orders in between in the chain of authority.

5. Please provide me with the complete and annotated file of all delegation of authority containing the delegation made to your office and by your office as required to be maintained by IRM 243.(11) MT 1230-21.

6. As a matter of clarification I do not seek documents from the Delegation of Authority Handbook. I seek the signed orders which contain names of the above individuals and the signature of the person authorized to delegate the authority.

Dated this _____, day of « 6», 1992.

Respectfully,

« 1»

I understand the penalties provided in 5 U.S.C. Section 552a(i)(3) for requesting or obtaining access to records under false pretenses.

This information is for personal use, as per 26 CFR part 601.702 (c)(ix).
DOA. FOI

Delegation Order**Order No. 4 (Rev. 17)**

Effective date: 5-12-86

Authority to Issue Summonses, to Administer Oaths and Certify, and to Perform Other Functions

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1 and 301.7605-1(a) and the authorities contained in Section 7609 of the Internal Revenue Code of 1954 and vested in the Commissioner of Internal Revenue Service by Treasury Department Order No. 150-37 to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; to enforce summonses; to apply for court orders approving the service of John Doe Summonses issued under Section 7609(f) of the Internal Revenue Code; to apply for court orders suspending the notice requirements in the case of summonses issued under Section 7609(g) of the Internal Revenue Code; and under Section 7609(i)(2) of the Internal Revenue Code; may, when requested, certify to third-party recordkeepers that no action to quash has been timely initiated or that the taxpayer has consented to the examination of the records summonsed, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), 5, and 6 of this Order.

1(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to all District Directors and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) International: Assistant and Deputy Assistant Commissioner and Directors, Offices of Compliance and Foreign Programs.

(3) District Criminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(4) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) District Examination: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

1(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) Assistant Commissioner (International): Criminal Investigation Chief of Branch, Group Managers and Special Agents; Collection Chief of Branch and Group Managers; and Examination Chief of Branch, Case Managers and Group Managers.

(3) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches; Chiefs, Special Procedures Staffs; and Group Managers.

(5) District Examination: Chiefs of Branches, Case Managers, Group Managers and, in streamlined districts Chiefs, Examination Section.

(6) District Employee Plans and Exempt Organizations: Group Managers.

1(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officer's case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a

MT 1229-57

Order No. 4

IR Manual

statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) Assistant Commissioner (International): Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS-9 and above.

(2) District Collection: Revenue Officers, GS-9 and above.

(3) District Examination: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(4) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

(f) Revenue Representatives, GS-5 and above, aides of Revenue Officers, GS-5 and above, and Revenue Officers, who are assigned to the district Collection activity may serve any summons issued by the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order.

(g) Tax Fraud Investigative Aides, GS-5 and above, who are assigned to the district Criminal Investigation activity may serve any summons issued by the officers and employees referred to in Paragraphs 1(b) and 1(c) of this Order.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602-1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603-1 to serve

summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(a), and 301.7605-1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b) and 4(c) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

4(b) General Designations

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; Management Auditors; Internal Security Inspectors; Investigators (Internal Security); and Internal Security Assistants.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) International: Assistant and Deputy Assistant Commissioner (International), Directors, Offices of Compliance and Foreign Programs, their Branches; Special Agents; Case Managers; Group Managers, Internal Revenue Agents; Estate Tax Attorneys; Estate Tax Law Clerks; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches; Chiefs, Special Procedures Staffs; Chiefs, Collection Section; Group Managers; Revenue Officers; Revenue Representatives and Office Collection Representatives.

(5) District Examination: Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Estate Tax Attorneys; Estate Tax Law Clerks; and Estate Tax Examiners.

(6) District Employee Plans and Exempt Organization: Chief of Division; Chief, Examination Branch, Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

Order No. 4

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(7) Service Center: Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the correspondence examination function; and Special Agents.

4(c) District Directors, Service Center Directors, Regional Inspectors, and the Chief of Investigation Branch, Internal Security Division, may redelegate the authority under 4(a) of this Order to student trainees (Revenue Officer), student trainee (Accounting Student Trainee), Audit Accounting Aides, Tax Fraud Investigative Aides, aides or trainees (Internal Auditor) and student trainees (Internal Security Inspector), provided that each student trainee or aide shall exercise said authority only under the appropriate supervision of a Revenue Officer, Tax Auditor, Revenue Agent, Special Agent, Internal Auditor, or Internal Security Inspector, as applicable.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622-1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations *except* that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive.

(a) Revenue Representatives and Office Collection Representatives referred to in paragraph 4(b)(4) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph, except that Revenue Representatives, GS-5 and above, are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and duties contained in paragraph 1(f) of this order.

(b) Tax Fraud Investigative Aides, GS-5 and above, referred to in Paragraph 4(c) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph; except that the Tax Fraud Investigative Aides, GS-5 and above, are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and duties contained in Paragraph 1(g) of this Order.

6. The authority delegated herein may not be redelegated except as provided in paragraph 4(c).

7. Delegation Order No. 4 (Rev. 16), effective December 3, 1984, is superseded.

/s/ James I. Owens
Deputy Commissioner

Order No. 5 (Rev. 12)

Effective date: 1-28-87

Emergency Order of Succession and Delegation of Authority

1. By virtue of the authority vested in me by Treasury Department Order No. 129, as revised, the officials in the positions listed below are hereby authorized, in the event of an enemy attack on the United States, and the disability of the Commissioner, his/her absence from the main Treasury Relocation Site, or if there is a vacancy in the office, to succeed to the position of Acting Commissioner in the order listed, and are authorized to perform the functions of Commissioner to insure the continuity of the functions of that office:

- Deputy Commissioner
- Associate Commissioner (Operations)
- Associate Commissioner (Policy and Management)
- Associate Commissioner (Data Processing)
- Assistant Commissioner (Examination)
- Assistant Commissioner (International)
- Assistant Commissioner (Collection)
- Assistant Commissioner (Criminal Investigation)
- Assistant Commissioner (Returns and Information Processing)
- Assistant Commissioner (Planning, Finance and Research)
- Assistant Commissioner (Human Resources Management and Support)
- Assistant Commissioner (Inspection)
- Assistant Commissioner (Employee Plans and Exempt Organization)
- Assistant Commissioner (Computer Services)

2. If none of these officials is available, the first available Regional Commissioner, in the order of appointment as Regional Commissioner, will become Acting Commissioner.

3. If none of the officials listed in Paragraphs 1 and 2 is available, the first available District Director in the order shown on the list on file at each National Office Relocation Site (prepared on the basis of the higher ES grade first, date of promotion to the grade and alphabetical order where grade and promotion dates are identical) will assume the position of Acting Commissioner.

MT 1229-67

Order No. 5

IR Manual

Internal Revenue Service
DELEGATION ORDER

ORDER NO.

AUS-164

OFFICE:

SOUTH TEXAS DISTRICT

SUBJECT:

Authority To Execute Consents Fixing The Period Of Limitations On Assessment Or Collection Under Provisions Of The 1939, 1954 and 1986 Internal Revenue Code

AUTHORITY FOR DELEGATION:

Commissioner Delegation Order No. 42 (As Revised)
Internal Revenue Manual 4500, paragraph 4541.5

DATE OF ISSUE:

5/18/98

EFFECTIVE DATE:

08-15-1996

Pursuant to the authority vested in me by Treasury Decisions 6118 and 6172, the incumbents of, and persons acting in, the positions listed below are hereby authorized to sign their names on behalf of the District Director of Internal Revenue Service to all consents fixing the period of limitations on assessment and collection:

Examination Division

Personnel assigned to Examination Technical and Support Staff, GS-11 and higher, Group Managers (including Large Case Managers), Return Classification Specialist and Return Classification Officers, GS-11 and higher, Reviewers, GS-11 and higher.

Collection Division

Revenue Officers, GS-9 and higher, Special Procedures Branch Managers, GS-10 or higher.

Criminal Investigation Division

Chief, Criminal Investigation Division

Collection Division

MAY 26 1998

Austin, Texas


Jean K. Pope
Acting District Director

This Delegation Order is being issued to correct an administrative error which occurred when Delegation Order AUS-55 (Rev. 7), dated November 3, 1994, was inadvertently revoked on August 15, 1996.

EFFECT ON OTHER DOCUMENTS:

REDELEGATION:

- Authority may not be redelegated.
 Authority may be redelegated as specified in text.

DISTRIBUTION:

Technical Support Branch - 5
Chief, Examination Division - 2
District Director - 2
NTEU Chapter 52

Chief, Collection Division
IMDSS Coordinator, SS:FM, AUCS - 3
Chief, Criminal Investigation Division

RECEIVED
District Director

INTERNAL REVENUE SERVICE

MAY 20 1997

ORDER NO. AUS-1(Rev.11)

DELEGATION ORDER

Austin, Texas

SOUTH TEXAS DISTRICT

SUBJECT:

To Sign Lien, Levy, Quitclaim Deeds, Redemption Certificates, and Related Documents

AUTHORITY FOR DELEGATION: Internal Revenue Regulations 301.6331-1; 301.6323; 301.7425; 301.6338-1(b); and 301.7701-9(c). Internal Revenue Manuals 5300, 5600, and 5700	DATE OF ISSUE: MAY 15 1997	EFFECTIVE DATE: MAY 15 1997
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------	---------------------------------------

Authority to sign notices of Federal tax liens, levies, quitclaim deeds, redemption certificates, and related documents is redelegated as follows to employees in the Collection activity:

A. The Chief, Special Procedures Branch and Chief, Advisory Section, Special Procedures Branch are hereby authorized to sign the following documents:

- Form 668H, 668J Notice of Federal Estate Tax Lien
- Form 668Z Certificate of Release of Federal Tax Lien
- Form 669A Certificate of Discharge of Property From Federal Tax Lien
- Form 669B Certificate of Discharge of Property From Federal Tax Lien
- Form 669C Certificate of Discharge of Property From Federal Tax Lien
- Form 669D Certificate of Subordination of Federal Tax Lien
- Form 669E Certificate of Subordination of Federal Tax Lien
- Form 669F Certificate of Subordination of Federal Estate Tax Lien
- Letter 1628(P) Certificate of Nonattachment of Federal Tax Lien
- Letter 1629(P) Revocation of Certificate of Release of Federal Tax Lien Escrow Agreement (No Form Number)

B. The Chief, Special Procedures Branch is hereby authorized to sign the following documents:

- Record 21 Record of Seizure and Sale of Real Estate Quitclaim Deed
- Quitclaim Deed for sold seized/redeemed property once the applicable redemption period has expired.
- Withdrawal of the Notice of Federal Tax Lien Withdrawal of the Notice of Federal Tax Lien based on TBOR2 signed into law July 30, 1996, which was added to IRC Section 6323(j) to provide the Service with the statutory authority to withdraw liens under certain circumstances.

EFFECT ON OTHER DOCUMENTS: Delegation Order AUS-1 (Rev. 10) dated 4-1-96 is obsolete.	REDELEGATION: <input type="checkbox"/> Authority may not be redelegated. <input checked="" type="checkbox"/> Authority may be redelegated as specified in text.
-------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DISTRIBUTION:

All Managers-Collection Division

District Director
IMDDS Coordinator SS:FM-AUSC

- C. The Chief, Collection Division is authorized to sign the notice of sale for sales to be held in a county other than the county in which the property was seized.
- D. The Chief, Special Procedures Branch and Group Managers in the Collection activity are authorized to make a determination whether property seized by levy is perishable as defined in Section 6336 of The Internal Revenue Code. This includes authority to proceed under Section 6336 with the sale of perishable goods, except where the property has been seized on a jeopardy assessment.
- E. The Field Branch Chiefs in the Collection activity are authorized to make a determination whether property seized by levy on the basis of a jeopardy assessment is perishable as defined in Section 6336 of the Internal Revenue Code. This includes authority to authorize the sale of perishable goods under Section 6336.
- F. The Chief, Special Procedures Branch and Field Branch Chiefs, in the Collection activity, are authorized to sign Form 668A, Notice of Levy, or Form 668W, Notice of Levy on Wages, Salary and Other Income, to be served against benefit income as defined in Manual Section 536(14).1 which includes social security benefits, Medicare payments, and cash loan value of insurance policies (except death benefits).
- G. GS-9 and above Revenue Officers are authorized to sign the following documents:

Form 668Y	Notice of Federal Tax Lien
Form 668A	Notice of Levy (with exception of Forms 668A to be served against benefit income as defined in IR Manual Section 536(14).1 which includes social security benefits, Medicare payments, cash loan value of insurance policy and death benefits)
Form 668B	Levy
Form 668C	Final Demand
Form 668D	Release of Levy
Form 668E	Release of Levy
Form 668F	Notice of Federal Tax Lien Refiling
Form 668W	Notice of Levy on Wages, Salary and Other Income (with exception of Forms 668W to be served against benefit income as defined in IR Manual Section 536(14).1 which includes social security benefits, Medicare payments, cash loan value of insurance policy and death benefits)
Form 1143	Advertising Order
Form 2434	Notice of Public Auction Sale
Form 2434A	Notice of Sealed Bid Sale
Form 2435	Certificate of Sale of Seized Property

Delegation Order AUS-1 (Rev. 11)

- H. Group Managers in the Walk-in Function of the Collection Division and the Chief, Problem Resolution Section in the Problem Resolution Office are authorized to sign the following documents:

Form 668Y Notice of Federal Tax Lien

Form 668A Notice of Levy (with exception of Forms 668A to be served against benefit income as defined in IR Manual Section 536(14).1 which includes social security benefits, Medicare payments, cash loan value of insurance policy and death benefits)

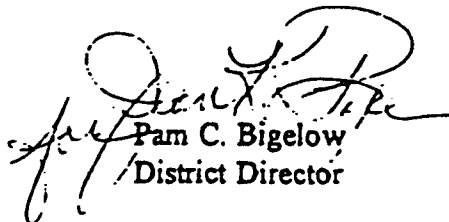
Form 668D Release of Levy

Form 668W Notice of Levy on Wages, Salary and Other Income (with exception of Forms 668W to be served against benefit income as defined in IR Manual Section 536(14) which includes social security benefits, Medicare payments, cash loan value of insurance policy and death benefits)

- I. GS-7 Office Collection Representatives, Taxpayer Assistance Representatives, GS-9 Taxpayer Assistance Specialists, and GS-9 PRP Tax Technicians are authorized to sign the Form 668D, Release of Levy, for levies issued by the Automated Collection System only.
- J. Chief, Advisory Section and Chief, Analysis Section in the Special Procedures Branch, and Group Managers in the Collection activities are authorized to sign Form 668Z, Certificate of Release of Federal Tax Lien (limited to cases where the outstanding obligation has been satisfied, except in the case of acceptance of bond or offer in compromise).
- K. Group Managers in the Collection activity and Special Procedures Branch Advisors are authorized to sign the name of the Chief, Special Procedures Branch on Form 668Z, Certificate of Release of Federal Tax Lien, in those cases where the liability has become legally unenforceable.
- L. The Chief, Special Procedures Branch is authorized to sign the Release of Right of Redemption, Certificate of Redemption, and related Quitclaim Deeds.
- M. The Chief, Special Procedures Branch is authorized to issue redelegation orders in writing to selected GS-9 SPB employees and above to sign certificates of release of liens to be issued where the outstanding obligation has been satisfied.

- N. The Chief, Special Procedures Branch is authorized to issue redelegation orders in writing to selected GS-11 SPB employees and above to sign certificates of release of liens in cases where the liability has become legally unenforceable.
- O. The Chief, Special Procedures Branch is authorized to sign the memorandum to the Chief, Accounting Branch (Midstates Region) requesting money from the Revolving Fund for use in redemption of real property, and the quitclaim deed to real property that has been redeemed and sold.
- P. GS-9 and above Revenue Officers are authorized to sign the Form 668Z, Certificate of Release of Federal Tax Lien, when they receive full payment in certified funds. This authority will be used only when it is absolutely essential that the taxpayer receive an immediate release of the Notice of Federal Tax Lien.
- Q. Authority is hereby redelegated to the Chief, Collection Division; Chief, Special Procedures Branch; Chief, Field Branches I and II; Chief, Advisory Section as follows:
 - a. To acknowledge the receipt of IRC 7425 Notices and to reject them because of inadequacies; and
 - b. To approve consent to nonjudicial sale under IRC 7425 in those cases that meet the criteria in IRM 5737.8.
- R. Authority is hereby delegated to the Chief, Special Procedures Branch; Chief, Field Branches I and II, Collection Division, for the return of levy proceeds, without interest according to the provisions of TBOR2.

This authority also constitutes a delegation to all intervening supervisory positions and may not be further delegated, except as noted herein.


Pam C. Bigelow
District Director

DELEGATION ORDER

OFFICE

Rocky Mountain District

SUBJECT

Authority to Prepare, Sign, Issue and Rescind Statutory Notice

AUTHORITY FOR DELEGATION Commissioner's
Delegation Order No. 77 (Rev. 27)
effective October 15, 1992 and IRM §4460

DATE OF ISSUE

EFFECTIVE DATE

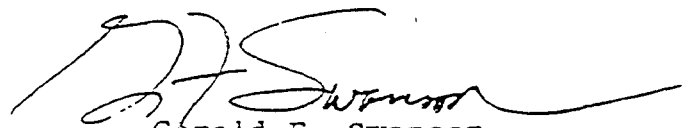
May 1, 1996

The authority granted to District Directors by 26 CFR 301.7701-9, 26 USC 6212, 26 CFR 301.6212-1, Treasury Order 150-10 and 26 CFR 301.6861-1 to sign the name of the District Director and send to the taxpayer by registered or certified mail any statutory notice of deficiency is hereby redelegated, and the authority to imprint the name of the District Director by use of a signature stamp is delegated to the following: (The imprinted name should be followed by the delegate's initials.)

Chief, Quality Measurement Staff;
Chiefs, Quality Measurement Sections;
Internal Revenue Agent, Reviewers, GS-11 and above
for field examination cases;
Tax Auditor and Internal Revenue Agent, Reviewers,
GS-9 and above for office examination cases.

The following officials are authorized by Treasury Order 150-10, 26 USC 6212(d) and Section 1562 of the Tax Reform Act of 1986 to sign a written form of document rescinding any notice of deficiency:

Chief, Quality Measurement Staff;
Chiefs, Quality Measurement Sections;
Internal Revenue Agent, Reviewers, GS-13
90-Day Coordinator (if not GS-13)



Gerald F. Swanson
District Director

EFFECT ON OTHER DOCUMENTS:

This Order supersedes District
Director Delegation Order No. 17
(Rev. 15) dated June 7, 1991.

REDELEGATION:

- Authority may not be redelegated.
 Authority may be redelegated as specified
in text.

DISTRIBUTION:

Delegatee, Examination Division Managers
District Director
Chief, Resources Management

Management Systems Branch
ARC-Examination
Library

AFFIDAVIT OF PUBLICATION

State of New York,

County of Chautauqua

City Of

Peggy J. Stravato, being duly sworn, deposes and says that she is the Principal Clerk for The Ogden Newspapers, Inc., the publisher of The Post-Journal, a daily newspaper published in the City of Chautauqua County, State of New York, and that a notice of which the annexed is a printed copy, was inserted and published in said newspaper on the following dates:

September 26, 27, 28, 29 and 30,

SIGNED: Peggy J. Stravato
PEGGY J. STRAVATO

Sworn to before me, this 1st

day of October 19 97

Carol A. Fiscus
Notary Public

CAROL A. FISCUS #4770143
Notary Public, State of New York
Qualified in Chautauqua County
My Commission Expires May 31, 1998

**LEGAL NOTICE
WARNING - BUYER BEWARE
Concerning Property Located
at
town, NY owned by
&**

This property has been allegedly seized under improper actions and any buyer may be in danger of losing any amount of monies which they invest or place on it. Internal Revenue Agents have failed to follow federal and state laws in this alleged seizure. See FRCP 64 & 69 26 USC 6338, SCR 114 US vs Good, pg 496 & 502. Internal Revenue has failed to get all necessary documentation and follow legal steps in their illegal actions. Revenue agents lack legal authority to sell any properties. Revenue agents have refused to state their delegation of Authority. A levy for delinquent taxes requires execution of warrant of distraint 26 USCA 3690-3697. Internal Revenue agents are using ATF laws which are not applicable to income tax laws.

ENCUMBRANCES
Mortgage held by
John R & Lorraine
also
has interest in property
Publish, Sept 26,27,28,
29,30, 1997



Release of Levy

Name and Address
c/o [unclear] Street
[unclear], PA 165

On July 10, 1997, certain property (or rights to property) belonging to the taxpayer named below was levied on by levy dated July 10, 1997.

Account of

Under section 6343 of the Internal Revenue Code, the following property (or rights to property) is released from the levy when the recipient completes the official receipt on the other side of this form.

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of [unclear] County of [unclear] and State of New York. Beginning at a point in the northerly line of East 5th St. 250 feet easterly from its intersection with the easterly line of Lincoln St. and running thence northerly at right angles with East 5th St. 50 feet thence southerly and parallel with the first described line 120 feet to the northerly line of East 5th St. and thence westerly along the northerly line of said street 50 feet to the place of beginning, and known as lot No. 59 on Footes allotment "b".

Property Commonly known as: East [unclear] Street
[unclear], N.Y.

Dated at IRS OFFICE, Buffalo, NY on OCTOBER 7, 1997

Signature [Signature]

Title Revenue OFFICER

Signature

Title



DEPARTMENT OF HEALTH & HUMAN SERVICES

Social Security Admin

Refer to:

705 E 41st Street
PO Box 1710
Sioux Falls SD 57117
January 10, 1986

Jerome T. Schiefen
RR 1 Box 149
Hudson, SD 57034

Dear Mr. Schiefen,

Your recent letter to the Attorney General's office has been forwarded to us to answer.

Social Security is a voluntary system in that no one is required to get a number. However, programs which use social security numbers for control purposes might not allow a person without a social security number to participate.

The Internal Revenue Service uses social security numbers as taxpayer identification numbers. P.L. 87-397 was passed on October 5, 1961 requiring each taxpayer to furnish an identifying number for tax reporting purposes. Because of this, employers must have the social security numbers of their workers to legally report their earnings. They could not continue to employ an individual for whom they could not legally report earnings.

A bank or lending institution is not governed by social security rules but I doubt very much if they would refuse a loan simply because the applicant had no social security number. However, a person with no social security number would have no taxable income (see paragraph above) and I am sure this fact would have a bearing on their decision.

An inheritance large enough to be taxable would require the recipient to have a social security number for IRS purposes. The person leaving the inheritance would not be required to have a social security number just for this purpose.

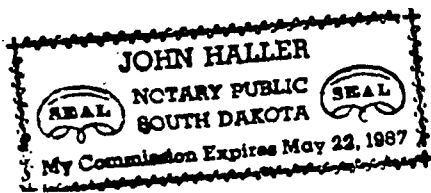
I hope this helps answer your question. If you need any further information you may call us at 1-800-952-0100.

Sincerely,

Penny Payton
Claims Representative

I hereby certify that the above letter from the Department of Health & Human Services to Jerome T. Schiefen, #RR1, Box 149, Hudson, South Dakota 57034, dated January 10, 1986, is a true and correct copy of the original.

John Haller 2/25/86
NOTARY
My commission expires 5/22/87



SOCIAL SECURITY NUMBER USAGE

TO:

SUBJECT: Right To Refuse To Disclose Social Security Number

42 USCS Sec.405(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, drivers license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of Individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

42 USCS Sec.405(C)(i) contains the phrase 'Individuals affected by such law, may require any individual who is or appears to be so affected to furnish'... "the social security account number.' This phrase suggests it is my responsibility to show evidence that this law does not apply to me.

The phrases "individuals affected by such law" and "appears to be so effected", I believe clearly suggest that some may not be 'so affected.'" Further evidence, which supports that some may not be 'so affected*' is...

1. Title 42 Sec.408: "Whoever (8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States shall be guilty of a felony and upon conviction thereof shall be fined under Title 18 or imprisoned for not more than five years, or both."

2. The Fifth Amendment of the Constitution Bill of Rights, the supreme Law of the Land, says, "We The People ... " shall not deprived of life, liberty, or property, without due process of law..."

3. 26 USC 6109 (a)(c) Only requires an employer to REQUEST a social security number from an employee, not demand one.

4. The Privacy Act of 1974 provides that: "It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such Individuals refusal to disclose his Social Security Number.' (88Stat, 1896 Sec. 7(a)(1))

5. Older social security cards contain the phrase..."Not for Identification"

42 USCS Sec.405(C)(i) also contains the phrase "It is the policy of the United States that any State"... "within its jurisdiction..."

Jurisdiction is defined as

42 USCS 405(C)(vi) For purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Common Wealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

The Supreme Court has ruled:

Powers excel Dovon v. Charron RI 135A. 2nd 829 832

"Where a general term in Statute is followed by the word "including" the primary import of specific words is to indicate restriction rather than enlargement."

I read this to be clear evidence that I am not "so affected" by this law, thereby eliminating the 'appears to be' question. I am a Natural Private Citizen of the United States of America and am not within the jurisdiction defined.

Unless contrary evidence can be produced, you will be in violation of Title 42 Sec. 408(8), and the Fifth Amendment of the Constitution of The United States of America, if you continue to attempt to compel me to produce my social security number, and refuse to provide me "any right, benefit, or privilege" or deprive me of 'life, liberty, or property, without due process of law.'

to attach or garnish plaintiff's social security benefits in violation of social security law. *Sokolnick v. Harlow, C.A.1 (Mass.) 1987, 820 F.2d 13.*

29. State taxation

"Levy," as used in federal statute stating that social security benefits shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, refers to enforcement of judgment or other legal process involving collection of debts through execution, attachment, gar-

nishment, or levy, and does not prohibit state taxation of social security benefits. *Boersma v. Karnes, 1988, 417 N.W.2d 341, 227 Neb. 329, appeal dismissed 109 S.Ct. 29, 102 L.Ed.2d 9.*

30. State regulation or control

Antiassignment and antilegal process provisions in Social Security Act, with their specific allowance for spousal support, promote federal uniformity and preempt state law. *Olson v. Olson, N.D.1989, 445 N.W.2d 1.*

§ 408. Penalties

(a) In general

Whoever—

(1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of Title 26) as to—

(A) whether wages were paid or received for employment (as said terms are defined in this subchapter and Title 26), or the amount of wages or the period during which paid or the person to whom paid; or

(B) whether net earnings from self-employment (as such term is defined in this subchapter and in Title 26) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(2) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(3) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(4) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(6) willfully, knowingly, and with intent to deceive the Secretary as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Secretary with respect to any information required by the Secretary in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for the purpose of obtaining anything of value from any person, or for any other

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Secretary (in the exercise of his authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Secretary by him or by any other person; or

(B) with intent to deceive, falsely represents a number to be the social security account number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person; or

(C) knowingly alters a social security card issued by the Secretary, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;

shall be guilty of a felony and upon conviction thereof shall be fined under Title 18 or imprisoned for not more than five years, or both.

Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under Title 18 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

(b) Effect upon certification as payee

Any individual or entity convicted of a felony under this section or under section 1383a(b) of this title may not be certified as a payee under section 405(j) of this title.

(c) Definitions

For the purpose of subsection (g) of this section, the terms "social security number" and "social security account number" mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.

(d) Aliens

(1) Except as provided in paragraph (2), an alien—

(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of Title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

(B) whose status is adjusted to that of permanent resident—

(1) under section 202 of the Immigration Reform and Control Act of 1986, or

(ii) pursuant to section 1259 of Title 8, or

(C) who is granted special immigrant status under section 1101(a)(27)(I) of Title 8,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.

(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C) of this section) consisting of—

(A) selling a card that is, or purports to be, a social security card issued by the Secretary;

(B) possessing a social security card with intent to sell it, or

D.A.R.E.

Hooking Your Child on Drugs

In most police jurisdictions in the United States, uniformed police officers are intervening in elementary and junior high school classrooms, supposedly in the name of antidrug education. The program is called Drug Abuse Resistance Education (DARE), a.k.a. Alert, a.k.a. Bears Against Drugs. It is not an "antidrug" program. It is an anti-parent psycho-manipulation program administered by an unlicensed practitioner, who happens to wear a uniform and carry a gun. The aim of the New Age psychotherapy sessions is to break the child's ties to the moral outlook of family and church, and to teach the young child that he or she is qualified to decide to use mind-altering drugs.

DARE officers aggressively oppose strict antidrug legislation. They say they prefer a "neutral" climate.

DARE is a psycho-profiling program run by specially trained local police officers, who conduct group therapy sessions with children in all grades in the public school system. DARE officers use techniques developed by behavioral psychologist Carl Rogers and his student Dr. William Coulson, who pioneered the "social engineering" techniques now being imported into all manner of educational curricula.

DARE police officers conduct a weekly session with each grade of students, during which the children are induced, through invasive and coercive techniques, to discuss personal and family problems in the group setting. The information developed in the course of the role playing and group dynamics sessions is noted and catalogued by the officer, who develops dossiers on the families of the students. Children are encouraged to talk about "such problems as abuse, neglect, alcoholic parents, or relatives who use drugs." According to the DARE program brief, "Officers are trained to report and refer these cases to the appropriate school administration and state agency."

The cross-gridding of such hearsay information is common practice among DARE, school guidance officials, and state welfare agencies. The Department of Education has published a manual explaining how this can be done without running afoul of basic privacy laws. And, as more and more unfortunate parents have found out, these evaluations and files are a real stigma, targeting children for aggressive psychological manipulation, and shadowing the unsuspecting parent.

DARE draws its techniques from methods which were evaluated in a study conducted for the National Institute of Drug Abuse (NIDA), called Project SMART. Project SMART was reviewed by a group of psychiatrists from the University of Southern California, in a paper published in the *Journal of Preventive Medicine* in 1988. That review states flatly that the techniques utilized in the DARE curriculum were evaluated as having a negative effect on the students who were exposed to them.

The summary concludes: "By the final posttest, classrooms that had received the affective program had significantly more drug use than controls."

This negative assessment has been repeated in studies conducted by a variety of academic behavioral psychologists, the latest done in Kentucky in 1991.

This program teaches your kids how to use and sell DRUGS so the Injustice system will have lots of customers.

Wardius v. Oregon
No. 71-6042
Argued January 10, 1973
Decided June 11, 1973
412 U.S. 470

CERTIORARI TO THE SUPREME COURT OF OREGON

Syllabus

At petitioner's criminal trial, a witness' alibi evidence was struck as a sanction for petitioner's failure to file a notice of alibi in accordance with Oregon's statutory requirement, and petitioner himself was not allowed to give alibi testimony. Following petitioner's conviction the appellate court, affirming, rejected his constitutional challenge to the state statute, which grants no discovery rights to criminal defendants.

Held: Reciprocal discovery is required by fundamental fairness, and it is insufficient that, although the statute does not require it, the State might grant reciprocal discovery in a given case. In the absence of fair notice that petitioner will have an opportunity to discover the State's rebuttal witnesses, petitioner cannot, consistently with due process requirements, be required to reveal his alibi defense. Pp. 473-479.

Reversed and remanded; *see* 6 Ore.App. 391, 487 P.2d 1380.

MARSHALL, J., delivered the opinion of the Court, in which BRENNAN, STEWART, WHITE, BLACKMUN, POWELL, and REHNQUIST, JJ., joined. BURGER, C.J., concurred in the result. DOUGLAS, J., filed an opinion concurring in the result, *post*, p. 479. [412 U.S. 471]

MARSHALL, J., lead opinion

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case involves important questions concerning the right of a defendant forced to comply with a "notice of alibi" rule to reciprocal discovery.

In *Williams v. Florida*, 399 U.S. 78 (1970), we upheld the constitutionality of Florida's "notice of alibi" rule which required criminal defendants intending to rely on an alibi defense to notify the prosecution of the place at which they claimed to be at the time in question, and of the names and addresses of witnesses they intended to call in support of the alibi. {1} In so holding, however, we emphasized that the constitutionality of such rules might depend on "whether the defendant enjoys reciprocal discovery against the State." *Id.* at 82 n. 11. {2}

In the case presently before us, Oregon prevented a criminal defendant from introducing any evidence to support his alibi defense as a sanction for his

failure to comply with a "notice of alibi" rule which, on its face, [412 U.S. 472] made no provision for reciprocal discovery.{3} The case thus squarely presents the question left open in *Williams*, and we granted certiorari so that this question could be resolved. 406 U.S. 957 (1972).

We hold that the Due Process Clause of the Fourteenth Amendment forbids enforcement of alibi rules unless reciprocal discovery rights are given to criminal defendants. Since the Oregon statute did not provide for reciprocal discovery, it was error for the court below to enforce it against petitioner, and his conviction must be reversed.{4}

I

On May 22, 1970, petitioner was indicted under Ore.Rev.Stat. § 474.020 for unlawful sale of narcotics. The sale allegedly occurred the previous day. At trial, after the State had concluded its case, petitioner called one [412 U.S. 473] Colleen McFadden who testified that, on the night in question, she had been with petitioner at a drive-in movie. The prosecutor thereupon brought to the judge's attention petitioner's failure to file a notice of alibi, and, after hearing argument, the trial judge granted the State's motion to strike McFadden's testimony because of this failure. Petitioner himself then took the stand and attempted to testify that he was at the drive-in with McFadden at the time when the State alleged the sale occurred. Once again, however, the State objected, and the trial judge again refused to permit the evidence.

Petitioner was convicted as charged, and sentenced to 18 months' imprisonment. On appeal, the Oregon Court of Appeals rejected petitioner's contentions that the Oregon statute was unconstitutional in the absence of reciprocal discovery rights and that the exclusion sanction abridged his right to testify in his own behalf and his right to compulsory process. 6 Ore.App. 391, 487 P.2d 1380 (1971). In an unreported order, the Oregon Supreme Court denied petitioner's petition to review. *See* App. 21.

II

"Notice of alibi" rules, now in use in a large and growing number of States,{5} are based on the proposition that the ends of justice will best be served by a system of liberal discovery which gives both parties the maximum possible amount of information with which to prepare their cases, and thereby reduces the possibility of surprise at trial. *See, e.g.,* Brennan, *The Criminal Prosecution: Sporting Event or Quest for Truth?*, 1963 Wash.U.L.Q. 279; American Bar Association Project on Standards for Criminal Justice, *Discovery and Procedure Before* [412 U.S. 474] Trial 23-43 (Approved Draft 1970); Goldstein, *The State and the Accused: Balance of Advantage in Criminal Procedure*, 69 Yale L.J. 1149 (1960.). The growth of such discovery devices is a salutary development which, by increasing the evidence available to both parties, enhances the fairness of the adversary system. As we recognized in *Williams*, nothing in the Due Process Clause precludes States from

FREEDOM OF INFORMATION ACT REQUEST

To Disclosure Officer
Internal Revenue Service
PO Box 1445500 Stop 63
Cincinnati, Ohio 45250-5500

From _____
Account # _____

DATE _____

Dear Disclosure Officer:

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). If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records. I am attesting under penalty of perjury that I am a Category E requester.

BACKGROUND: According to the IRM (20) 100 PENALTY MANUAL

EXHIBIT A.

1. This request pertains to the years:
1998.
2. Please send me FORM 3198 for the above years that pertain to the above referenced Account number and individual, that would have to have been created before any PENALTY could be created.

, Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED

On this _____ day of _____, _____, personally appeared, personally known to me. OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires _____

↙ Frivolous Return Penalty

(20)(10)91 General

(1) IRC section 6702 provides for an immediate assessment of a \$500 civil penalty against individuals who file frivolous income tax returns or frivolous amended income tax returns. The penalty is not based on tax liability. There does not need to be an underpayment of tax or understatement of liability in order for the penalty to be imposed in addition to any other penalty. The intent of the law is to stop the flow of returns, amended returns, or documents which purport to be returns, that contain altered line items or claim clearly unallowable deductions or credits based on a frivolous position.

↙ (2) The penalty can be asserted on a frivolous Form 1040, Form 1040X Amended Return, Form 843, Claim and others which:

(a) Do not contain sufficient information to judge the correctness of the tax, or

(b) Contain information that on its face indicates the self-assessment is incorrect, and

(c) The conduct referred to in (a) or (b) is due to a position which is frivolous or a desire to delay or impede the administration of the tax laws.

(3) Some of the schemes which may cause the assertion of the penalty are:

(a) Unallowable deductions such as the gold standard, discounted Federal Reserve Notes and War tax;

(b) wages are not income;

(c) constitutional claims (i.e., Fourth, Fifth and Sixteenth amendments);

(d) invalid returns; and

(e) nonprocessable returns.

(4) The frivolous return penalty is not applied against partnerships, corporations or estates.

(5) Statute of Limitations. A frivolous return:

(a) Does not constitute a valid return when the Service is unable to process the return, therefore, the IRC section 6702 penalty may be assessed at any time.

(b) Does constitute a valid return when the Service is able to process the return. Therefore, the IRC section 6702 penalty must be assessed within 3 years after the return was filed.

(6) See Exhibit (20)100-7, for the applicable penalty reference numbers.

(20)(10)92 Penalty Computation

Exhibit A
1072

(1) The civil penalty is \$500 per frivolous document.

(2) A taxpayer can have multiple penalties. However, for a joint return, only one \$500 penalty is assessed against the husband and wife, per frivolous document.

(3) See (20)(10)92:3 for LEM XX-(10)00.

(20)(10)93 Assertion

(1) Generally, the service center identifies frivolous returns and assesses the penalty.

(2) If the field receives a return that warrants a frivolous return penalty, the employee should indicate this on a Form 3198 Special Handling Notice, attached to the original return.

(3) A Form 8278 Computation and Assessment of Miscellaneous Penalties, will be completed and used for assessment unless the penalty is related to a joint return. The Non-Master File Assessment Voucher, Form 5734, will be used for the joint assessment of the penalty. See IRM Part IV for further information.

(20)(10)94 Penalty Relief

Taxpayers seeking judicial review of the imposition of the penalty must first pay the entire penalty. A Letter of Disallowance is sent to the taxpayer and the taxpayer can file suit contesting this penalty in the district court or U.S. Court of Federal Claims Court.

(20)(10)(10)0 IRC section 6705

Failure by Broker to

Provide Notice to Payors

(20)(10)(10)1 General

(1) IRC section 6705 provides a \$500 penalty for Failure by Broker to Provide Notice to Payors that a payee is subject to backup withholding.

(2) Under IRC section 3406(d)(2)(B), a broker who acquires a readily tradable instrument for a payee (customer) must notify the payor of such instrument within 15 days of the acquisition that the payee is subject to backup withholding if either of the following conditions exist:

(a) The payee fails to furnish the TIN to the broker.

(b) The IRS notifies the broker that the TIN is incorrect.

(c) The payee has not provided the broker with a certification that the payee is not subject to backup withholding, or

(d) The IRS has notified the broker before the acquisition that the payee is subject to backup withholding.

Exhibit A
2072

FREEDOM OF INFORMATION ACT REQUEST

To: Disclosure Officer
Internal Revenue Service
PO Box 1445500/ Stop 68
Cincinnati, Ohio/45250-5500

From:

Account #:

DATE: _____

Dear Disclosure Officer:

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). If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records. I am attesting under penalty of perjury that I am a Category E requester.

BACKGROUND: According to the IRM (20) 100 PENALTY MANUAL

EXHIBIT A.

1. This request pertains to the years:
1998.
2. Please send me FORM 5734
for the above years that pertain to the above referenced Account number and individual, that would have to have been created before any PENALTY could be created.

, Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

↙ Frivolous Return Penalty

(20)(10)91 General

(1) IRC section 6702 provides for an immediate assessment of a \$500 civil penalty against individuals who file frivolous income tax returns or frivolous amended income tax returns. The penalty is not based on tax liability. There does not need to be an underpayment of tax or understatement of liability in order for the penalty to be imposed in addition to any other penalty. The intent of the law is to stop the flow of returns, amended returns, or documents which purport to be returns, that contain altered line items or claim clearly unallowable deductions or credits based on a frivolous position.

↙ (2) The penalty can be asserted on a frivolous Form 1040, Form 1040X Amended Return, Form 843, Claim and others which:

(a) Do not contain sufficient information to judge the correctness of the tax, or

(b) Contain information that on its face indicates the self-assessment is incorrect, and

(c) The conduct referred to in (a) or (b) is due to a position which is frivolous or a desire to delay or impede the administration of the tax laws.

(3) Some of the schemes which may cause the assertion of the penalty are:

(a) Unallowable deductions such as the gold standard, discounted Federal Reserve Notes and War tax;

(b) wages are not income;

(c) constitutional claims (i.e., Fourth, Fifth and Sixteenth amendments);

(d) invalid returns; and

(e) nonprocessable returns.

(4) The frivolous return penalty is not applied against partnerships, corporations or estates.

(5) Statute of Limitations. A frivolous return:

(a) Does not constitute a valid return when the Service is unable to process the return, therefore, the IRC section 6702 penalty may be assessed at any time.

(b) Does constitute a valid return when the Service is able to process the return. Therefore, the IRC section 6702 penalty must be assessed within 3 years after the return was filed.

(6) See Exhibit (20)100-7, for the applicable penalty reference numbers.

(20)(10)92 Penalty Computation

Exhibit A 10/2

(1) The civil penalty is \$500 per frivolous document.

(2) A taxpayer can have multiple penalties. However, for a joint return, only one \$500 penalty is assessed against the husband and wife, per frivolous document.

(3) See (20)(10)92:3 for LEM XX-(10)00.

(20)(10)93 Assertion

(1) Generally, the service center identifies frivolous returns and assesses the penalty.

(2) If the field receives a return that warrants a frivolous return penalty, the employee should indicate this on a Form 3198, Special Handling Notice, attached to the original return.

(3) A Form 8278, Computation and Assessment of Miscellaneous Penalties, will be completed and used for assessment unless the penalty is related to a joint return. The Non-Master File Assessment Voucher, Form 5734, will be used for the joint assessment of penalty. See IRM Part IV for further information.

(20)(10)94 Penalty Relief

Taxpayers seeking judicial review of the imposition of the penalty must first pay the entire penalty. A Letter of Disallowance is sent to the taxpayer and the taxpayer can file suit contesting this penalty in the district court or U.S. Court of Federal Claims Court.

(20)(10)(10)0 IRC section 6705

Failure by Broker to

Provide Notice to Payors

(20)(10)(10)1 General

(1) IRC section 6705 provides a \$500 penalty for Failure by Broker to Provide Notice to Payors that a payee is subject to backup withholding.

(2) Under IRC section 3406(d)(2)(B), a broker who acquires a readily tradable instrument for a payee (customer) must notify the payor of such instrument within 15 days of the acquisition that the payee is subject to backup withholding if either of the following conditions exist:

(a) The payee fails to furnish the TIN to the broker.

(b) The IRS notifies the broker that the TIN is incorrect.

(c) The payee has not provided the broker with a certification that the payee is not subject to backup withholding, or

(d) The IRS has notified the broker before the acquisition that the payee is subject to backup withholding.

Exhibit A
2

FREEDOM OF INFORMATION ACT REQUEST

To: Disclosure Officer
Internal Revenue Service
PO Box 1445500, Stop 68
Cincinnati, Ohio 45250-5500

From:

Account #:

DATE: _____

Dear Disclosure Officer:

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). If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records. I am attesting under penalty of perjury that I am a Category E requester.

BACKGROUND: According to the IRM (20) 100 PENALTY MANUAL

EXHIBIT A.

1. This request pertains to the years:
1998.
2. Please send me FORM 8278
_____ for the above years that pertain to the above referenced Account number and individual, that would have to have been created before any PENALTY could be created.

, Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

↓
Frivolous Return Penalty

(20)(10)91 General

(1) IRC section 6702 provides for an immediate assessment of a \$500 civil penalty against individuals who file frivolous income tax returns or frivolous amended income tax returns. The penalty is not based on tax liability. There does not need to be an underpayment of tax or understatement of liability in order for the penalty to be imposed in addition to any other penalty. The intent of the law is to stop the flow of returns, amended returns, or documents which purport to be returns, that contain altered line items or claim clearly unallowable deductions or credits based on a frivolous position.

↓
(2) The penalty can be asserted on a frivolous Form 1040, Form 1040X Amended Return, Form 843, Claim and others which:

(a) Do not contain sufficient information to judge the correctness of the tax, or

(b) Contain information that on its face indicates the self-assessment is incorrect, and

(c) The conduct referred to in (a) or (b) is due to a position which is frivolous or a desire to delay or impede the administration of the tax laws.

(3) Some of the schemes which may cause the assertion of the penalty are:

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(d) invalid returns; and

(e) nonprocessable returns.

(4) The frivolous return penalty is not applied against partnerships, corporations or estates.

(5) Statute of Limitations. A frivolous return:

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(b) Does constitute a valid return when the Service is able to process the return. Therefore, the IRC section 6702 penalty must be assessed within 3 years after the return was filed.

(6) See Exhibit (20)100-7, for the applicable penalty reference numbers.

(20)(10)92 Penalty Computation

Exhibit A 14

(1) The civil penalty is \$500 per frivolous document.

(2) A taxpayer can have multiple penalties. However, for a joint return, only one \$500 penalty is assessed against the husband and wife, per frivolous document.

(3) See (20)(10)92:3 for LEM XX-(10)00.

(20)(10)93 Assertion

(1) Generally, the service center identifies frivolous returns and assesses the penalty.

(2) If the field receives a return that warrants a frivolous return penalty, the employee should indicate this on a Form 3198, Special Handling Notice, attached to the original return.

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(20)(10)94 Penalty Relief

Taxpayers seeking judicial review of the imposition of the penalty must first pay the entire penalty. A Letter of Disallowance is sent to the taxpayer and the taxpayer can file suit contesting this penalty in the district court or U.S. Court of Federal Claims Court.

(20)(10)(10)0 IRC section 6705

Failure by Broker to

Provide Notice to Payors

(20)(10)(10)1 General

(1) IRC section 6705 provides a \$500 penalty for Failure by Broker to Provide Notice to Payors that a payee is subject to backup withholding.

(2) Under IRC section 3406(d)(2)(B), a broker who acquires a readily tradable instrument for a payee (customer) must notify the payor of such instrument within 15 days of the acquisition that the payee is subject to backup withholding if either of the following conditions exist:

(a) The payee fails to furnish the TIN to the broker.

(b) The IRS notifies the broker that the TIN is incorrect.

(c) The payee has not provided the broker with a certification that the payee is not subject to backup withholding, or

(d) The IRS has notified the broker before the acquisition that the payee is subject to backup withholding.

Exhibit A
2/10

FREEDOM OF INFORMATION ACT REQUEST

To: Disclosure Officer
Internal Revenue Service
PO Box 1445500, Stop 68
Cincinnati, Ohio 45250-5500

From:

Account #:

DATE: 10/

Dear Disclosure Officer:

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). If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records. I am attesting under penalty of perjury that I am a Category E requester.

BACKGROUND: According to the IRM Non Master File, there must be an "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT" created before any assessment for any type of tax can be issued. SEE ATTACHED EXHIBIT A.

1. This request pertains to the years:
1998.
2. Please send me the "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER TRANSCRIPT" for the above years that pertain to the above referenced Account number and individual, that would have to have been created before any assessment could be created.

, Requester

COUNTY OF _____ >

STATE OF _____ >

SUBSCRIBED AND AFFIRMED:

On this _____ day of _____, _____, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

Signature of Notary

My Commission Expires: _____

 * Employee No. [REDACTED] *
 * OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT *
 * TRANSCRIPT DATE: 11/27/97 *
 * *****

(Department of the Treasury - Internal Revenue Service
 Document Locator Number [REDACTED] Taxpayer ID Number: [REDACTED]
 [REDACTED] Notice Date.....: 02/16/93
 [REDACTED] Type of Tax.....: INCOME
 [REDACTED] Master File Tax....: 20
 [REDACTED] Form Number.....: 1040
 [REDACTED] Period ending.....: 12/31/85
 8512 1230 Abstract Number...: 004
 3801- 53 Civil Pen. Ref. No.
 POA on File?..... No

Second Notice.....09/27/93
 Third Notice.....11/01/93
 Fourth Notice.....12/12/93
 TDA.....06/16/97
 53 Status.....07/23/97
 Claim/Adj Pending.
 OIC Status.....
 Collection Expir..08/15/03
 Penalty/Interest..

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.
 23C Date...08/16/93
 MASTERFILE OVERFLOW
 17221-142-31520-3 Recorders Initial _____

Transfer Sch. Number..

TRANS DATE	DESCRIPTION	CC	DOCUMENT LOCATOR	POSTING DATE	TRANS AMOUNT
08/16/93	150 TAX		38651-255-20000-96	09/12/96	50,888.00
08/16/93	160 DELING. PEN		38651-255-20000-96	09/12/96	11,449.80
08/16/93	270 FTP PENALTY		38651-255-20000-96	09/12/96	12,722.00
08/16/93	340 RES INT ASMN		38651-255-20000-96	09/12/96	64,325.00
10/18/93	360 FEES & COSTS		38651-255-20000-96	09/12/96	16.00
10/25/93	360 FEES & COSTS		38651-255-20000-96	09/12/96	236.00
07/25/94	670 PAYMENT		38651-255-20000-96	09/12/96	-130.00
07/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-80.00
07/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
08/05/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/08/94	670 PAYMENT		38651-255-20000-96	09/12/96	-140.00
08/12/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/15/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
08/16/94	670 PAYMENT		38651-255-20000-96	09/12/96	-180.00
08/29/94	670 PAYMENT		38651-255-20000-96	09/12/96	-100.00
08/31/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
09/06/94	670 PAYMENT		38651-255-20000-96	09/12/96	-50.00
09/06/94	670 PAYMENT		38651-255-20000-96	09/12/96	-70.00
09/13/94	670 PAYMENT		38651-255-20000-96	09/12/96	-72.64
09/13/94	670 PAYMENT		38651-255-20000-96	09/12/96	-160.00
09/16/94	670 PAYMENT		38651-255-20000-96	09/12/96	-50.00
09/20/94	670 PAYMENT		38651-255-20000-96	09/12/96	-2,500.00
09/20/94	670 PAYMENT		38651-255-20000-96	09/12/96	-185.15

*****CONTINUED ON NEXT PAGE*****

EXHIBIT A



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FEB - 4 2000

Dear Mr.

This responds to your request under the Freedom of Information Act (FOIA) to the Office of Management and Budget (OMB) dated October 7, 1999, which was received in this office on October 14, 1999. Your request to the Office of Management and Budget asks for a copy of the Standard Form 83 pertaining to Internal Revenue Service (IRS) regulation 26 CFR 1.1-1 and 26 U.S.C. Section 1, Individual Income Tax.

Neither 26 CFR 1.1 nor 26 U.S.C. 1 contain information collections, so they have not been assigned an OMB control number. OMB does, however, agree with IRS's position, as stated in the enclosed letter, dated September 26, 1996.

There is no charge for the enclosed document because there are fewer than 100 pages (and less than two hours of search time), which is below the threshold for which the agency may; assess fees.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Johnson".

Darrell Johnson
Freedom of Information Act Officer

Enclosure



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

SEP 26 1996

Dear Mr. _____

This is in response to your August 6, 1996, letter to _____ regarding the validity of the OMB approval for Form 1040 and the listing of Regulation section 1.1-1 in section 602.101 of the Code of Federal Regulations (CFR).

By agreement with the Office of Management and Budget (OMB), all IRS regulations that are subject to the Paperwork Reduction Act must be listed in section 602.101 of the CFR along with the OMB control numbers assigned to them. This is intended to comply with the requirement under the Act that collections of information must display OMB control numbers. Many regulations listed in section 602.101 have the same OMB number as the tax forms that are related to them. However, the listing in section 602.101 is not meant to be the legal authority for filing any tax forms represented by the OMB control numbers shown there. Some tax forms have different OMB numbers than the regulations listed in section 602.101.

Regulation section 1.1-1 is shown in the table with OMB number 1545-0067. This is an error because section 1.1-1 provides rules and cross references for the computation of income tax on individuals and does not contain any information collections or filing requirements subject to the Paperwork Reduction Act. Section 1.1-1 is mistakenly listed in section 602.101 and should not appear in the table at all. To correct this error, we removed section 1.1-1 from the table by publishing correcting amendments to 26 CFR Part 602 in the Federal Register on May 26, 1994, at page 27235 (copy enclosed).

The correct OMB number for Form 1040 is 1545-0074, which is shown on the form. OMB originally assigned 1545-0074 to Form 1040 in 1981 and the number has stayed the same since that time. I am enclosing copies of the OMB approvals for Form 1040 from 1981 and 1995, which is the most recent one. Both clearly indicate that the OMB number assigned to Form 1040 is 1545-0074. Form 1040 displays the correct OMB number and is properly approved by OMB for the collection of information related to the individual income tax. Therefore, the form must be complied with by taxpayers. I hope this information is helpful to you.

Sincerely,

Enclosures

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

AUG 19 1995

WILLIAM J. MURPHY, CLERK

UNITED STATES OF AMERICA

:

Case No.

v.

:

CR 3-95-73-

ERNEST A. McCULLER

:

INFORMATION
18 U.S.C. §661
(Misdemeanor)

THE UNITED STATES ATTORNEY CHARGES:

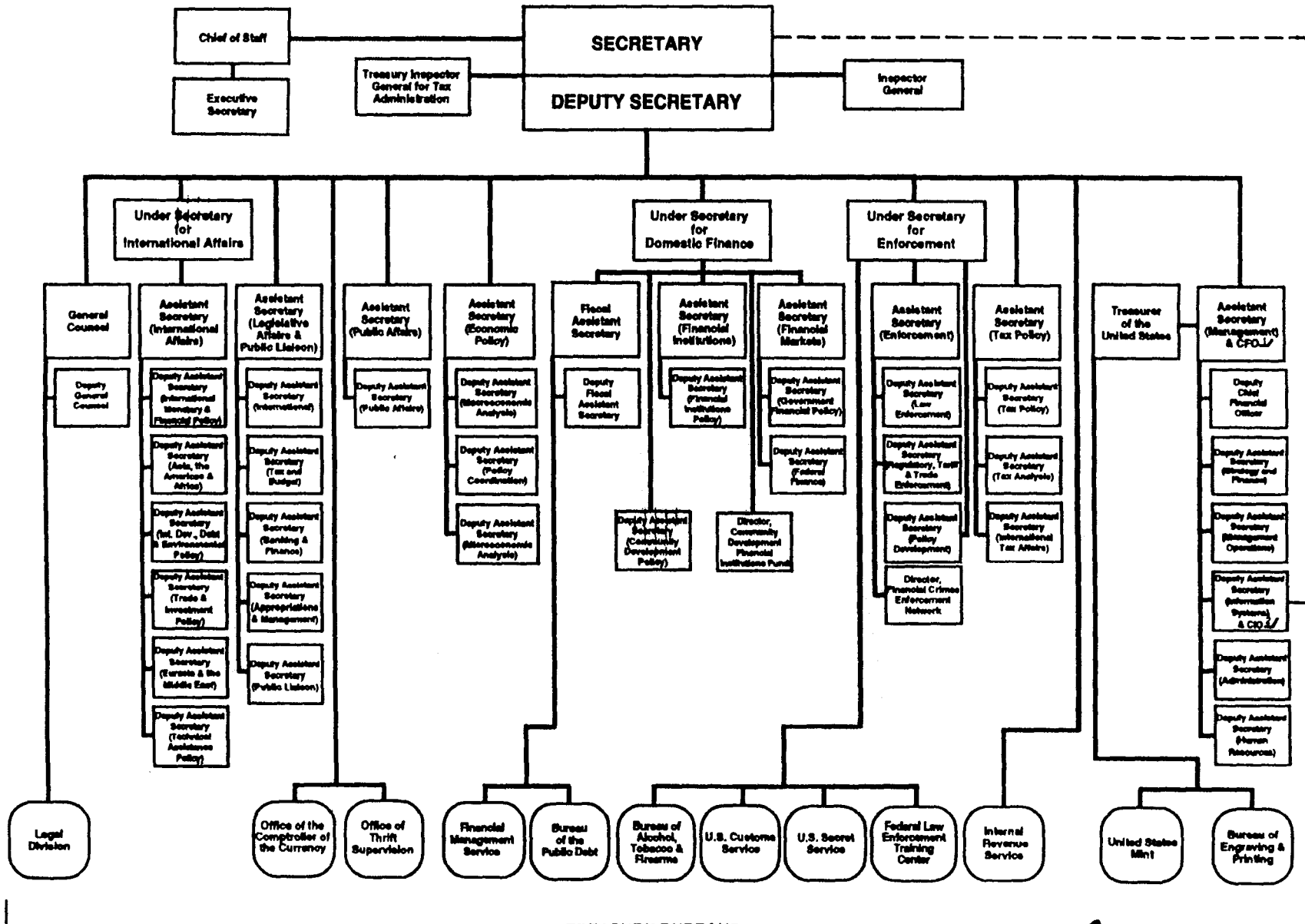
COUNT 1

On or about July 11, 1995, in the Southern District of Ohio, defendant, ERNEST A. McCULLER, at a place within the special maritime and territorial jurisdiction of the United States, namely Wright Patterson Air Force Base, Ohio, on land acquired for the use of the United States and under its exclusive jurisdiction, did take and carry away, with intent to steal and purloin, the personal property of another, namely stereo equipment and compact discs of a value not exceeding \$100.00, in violation of Title 18, United States Code, Sections 7(3) and 661.

EDMUND A. SARGUS, JR.
United States Attorney

Dale Ann Goldberg

DALE ANN GOLDBERG
First Assistant U.S. Attorney



✓ Assistant Secretary (Management) and Chief Financial Officer is Treasury's Chief Operating Officer.
 ✓ Deputy Assistant Secretary (Information Systems) is the Chief Information Officer (CIO)

Approved: Robert E. Rubin 01-07-99
 Robert E. Rubin
 Secretary of the Treasury
 Date

Assessment Certificate

Summary Record of Assessments

Prepared by

4. Num.

Class of Tax	Current Assessments				Deficiency and Additional Assessments <i>(Resulting From Regular Audit Examinations)</i>				Total Assessments
	Tax	Penalty	Interest	No. of Items	Tax	Penalty	Interest	No. of Items	
Withheld individual income and FICA									
Individual income - other									
Corporation income and excess profits									
Excise									
Estate and gift									
Tax on carriers and their employees									
Federal unemployment tax act									
Total Assessments									

SAMSAMS

6. Prepared From Accounting Input Reconciliation Sheets

5. Jeopardy Assessments Against Principal Taxpayers
(Included in the assessments above)

Number of principal taxpayers	Date and Number	Through	Date and Number
Total assessed against principal taxpayers			

Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in supporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

7. Date

8. Signature *(For service center/district director of Internal Revenue)*

Assessment Officer

Exhibit 5(10)00-1**Examination Request Master File**

C.C. AM 424 **Examination Request Master File** [Reference IRM 48(1311)]

1 Source Code	2 Organ Code	3 MFT	4 Status Code	5 Return, Not Requested	6 Our File D.O.	7 Project Code	8 Aging Reason	9 Push Code/Exec Mng Code	10 Alpha Status	11 Form 9																																																																																																																																																													
(1)	(2)	(3)	(4)	(5)	(6)	(7)		(8)																																																																																																																																																															
12A						13 Tax Period		14 Activity Code		15 Amount Claimed (Dollar Only)																																																																																																																																																													
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12C Taxpayer's Name (Print) (ATTACH AUDIT LABEL HERE)						16 Taxpayer's Address (13)		17 Reason for Request/Platypd Reason (14)		18 Requester/Date/Organization (15)																																																																																																																																																													
19 Approved By/Date (16)						20 Record on File																																																																																																																																																																	
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Form 5345 (Rev. 2-88) Page 1 Department of the Treasury - Internal Revenue Service

ORIGINAL - FORWARD FOR TERMINAL INPUT

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(1) Enter 65</p> <p>(2) Organization Code</p> <p>(3) Enter Master File Tax code</p> <p>(4) Enter 12 for status code</p> <p>(5) Enter X, unless copy of return is being requested</p> <p>(6) Enter district office code</p> <p>(7) Enter 164</p> <p>(8) Enter 020 for delinquent returns; enter 021 for substitute for returns</p> | <p>(9) Enter return form number</p> <p>(10) Self-Explanatory</p> <p>(11) Ensure that all periods to be examined are entered in YYMM format.</p> <p>(12) Enter 464 for Form 940
465 for Form 941
466 for Form 942
467 for Form 943</p> <p>(13) Self-Explanatory</p> <p>(14) Enter ETEP</p> <p>(15) Enter name of ROE & date</p> <p>(16) Secure group manager approval</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Exhibit 5(10)00-2

Instructions for Preparation of Form 5587

(Reference: IRM 5(10)32)

Examination Inquiry Request

<input type="checkbox"/> CCTXMODA <input type="checkbox"/> CCTXMODD <input type="checkbox"/> CCTXMOD__ (C,L,N,P,S, or X) <input type="checkbox"/> CCENMOD <input checked="" type="checkbox"/> CCAMDIS - all years/summary <input type="checkbox"/> CCAMDISA - page 1 only <input type="checkbox"/> CCAMDISA - all pages	Requested by	Date
	MARY DOE	10/01/87
	Approved by	Date
	Operator	Date

00	TIN OF TAXPAYER OR LABEL, IF AVAILABLE	10
01		11
02		12
03		13
04		14
05		15
06		16
07		17
08		18
09		19

Exhibit 5(10)00-2 Cont.**Instruction for Preparation of Form 5587****Instructions for Preparing Examination Inquiry Request**

1. Check the command code box that represents the kind of print(s) needed:

TXMOD: followed by a definer (A, C, D, L, N, P, S, or X): Contains all tax module information for a specific tax period on the TIF. Use only when AMDISA will not provide the needed information. Usually you will use TXMODA or TXMODD described below.

TXMODA: includes most tax module information but not DLNs.

TXMODD: includes all DLNs and posted and pending transactions and reject data.

TXMOD _ (C, L, N, P, S, or X): enter one of the following letters (definers) after TXMOD to request only a portion of the tax module:

C—Control base, history and pending data.

L—Pending and reject transactions, entity and resequence transactions, and DLNs for each pending and reject transaction code.

N—Notice data.

P—Posted and pending transaction data.

S—SC and MF status history data.

X—Status history and notice data.

ENMOD: the current name and address.

AMDISA: all years: the summary of all returns on AIMS with the same TIN. Enter only the TIN of taxpayer.

AMDISA - page 1: page 1 of the specific AIMS account. This contains most of the TIF data for that account.

AMDISA - all pages: includes all data on the AIMS sections of the TIF including project code.

2. Attach an Audit label for each account. If no label is available, print on one line the EIN or SSN, MFT, Tax Period (YYMM), and Name Control or Check Digit. The taxpayer's name, if known, can be printed below this line.

The EIN or SSN is followed by a file source.

For forms 706, 709, and 4638 and SSN's, the SSN must be followed by the letter "V" (NNN-NN-NNNNV).

For Form 706, the SSN of the decedent must be used, and for Form 709 the SSN of the donor.

If the return is for a Non Master File Account, an "N" must be entered immediately after the EIN or SSN (See IRM 48(13)1 Exhibit 400-4 for those returns requiring an "N".)

If a temporary EIN or SSN was secured by use of the AMTIN7 Command Code, enter D with a dash immediately following the EIN or SSN. (NNNNNNNNN-D)

3. Requested by: enter your initials and organization code symbols so that the information can be returned to you.
4. Approved by: If you've used labels, print n/a in this space. If you've printed the information manually, send the form to your manager or your manager's designee for second-level approval.

U.S. GOVERNMENT PRINTING OFFICE: 1987 181-457/54618

Department of the Treasury
 LIST OF ACTIVE REPORTS
 APPROVED UNDER THE FEDERAL REPORTING ACT
 AS OF 06/30/89

PAGE 506
 07/01/89

SEE HEADER PAGE FOR
 FOR EXPLANATION OF CODES

Internal Revenue Service

OMB NUMBER REPORT TITLE AGENCY FORM NUMBERS	PERSONS AFFECTED PUBLIC FREQUENCY	ANNUAL RESPONSES	ANNUAL REPORTING HOURS	LAST ACTION DATE	EXPIR- ATION DATE	PENDING ACTION
1545-0073 STATEMENT OF PERSON CLAIMING REFUND DUE A DECEASED TAXPAYER 1310	4 1 2	7,500	3,750	04/06/89	03/31/90	4
1545-0074 TREATMENT OF GAIN FROM DISPOSITION OF CERTAIN NATURAL RESOURCE RECAPTURE PROPERTY 1040 R & SE	4 1 4 2	185,944,290	297,014,128	05/26/89	09/30/91	
1545-0085 U.S. INDIVIDUAL INCOME TAX RETURN 1040A	4 1 7	21,447,413	21,745,403	09/11/88	09/30/91	
1545-0086 U.S. DEPARTING ALIEN INCOME TAX RETURN 1040C	4 1 2	2,000	7,913	12/02/88	11/30/89	
1545-0087 ESTIMATED TAX FOR INDIVIDUALS (3 FORMS) 1) U.S. CITIZENS AND RESIDENTS, 2) FOR NONRESIDENT ALIENS, 3) FOR USE IN PUERTO RICO (IN SPANISH) 1040-ES 1040-ES(HR) (ESPAÑOL)	4 1 4 5 7	40,091,091	7,127,777	03/30/88	08/31/91	
1545-0089 U.S. NONRESIDENT ALIEN INCOME TAX RETURN 1040NR	4 1 3 4 7	100,000	2,406,600	11/03/88	10/31/88	
1545-0090 U.S. SELF-EMPLOYMENT TAX RETURN, PLANILLA PARA LA DECLARACION DE LA CONTRIBUCION FEDERAL SOBRE EL TRABAJO POR CUENTA PROPIA-PUERTO RICO 1040SS 1040PR	4 1 3 4 7	49,700	155,600	04/30/89	11/30/91	
1545-0091 AMENDED U.S. INDIVIDUAL INCOME TAX RETURN 1040X	4 1 3 4 2	2,300,000	7,314,000	11/07/88	09/30/90	

Attachment
 A

275

in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam: Provided, That notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.

(b) **Guam Territorial income tax.** The income-tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial income tax, payable to the government of Guam, which tax is designated the "Guam Territorial income tax".

(c) **Enforcement of tax.** The administration and enforcement of the Guam Territorial income tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income-tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

(d) **Definition of "income-tax laws"; administration and enforcement; rules and regulations.** (1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A [26 USCS §§ 1 et seq.] (not including chapter 2 and section 931 [26 USCS §§ 1401 et seq. and 931]); chapters 24 and 25 of subtitle C [26 USCS §§ 3401 et seq. and 3501 et seq.], with reference to the collection of income tax at source on wages; and all provisions of subtitle F [26 USCS §§ 6001 et seq.] which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75 [26 USCS §§ 7201 et seq.]. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial income tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(e) of the Internal Revenue Code of 1954 [26 USCS § 7654(e)] for enforcement of the Guam Territorial income tax shall be prescribed by the Governor. The Governor or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in Guam pursuant to subsection (a) of this section.

(e) **Substitution of terms.** In applying as the Guam Territorial income tax

the income-tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(f) **Criminal offenses; prosecution.** Any act or failure to act with respect to the Guam Territorial income tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954 [26 USCS §§ 7201 et seq.], or the corresponding provisions of the Internal Revenue Code of 1939, as included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the government of Guam and may be prosecuted in the name of the government of Guam by the appropriate officers thereof.

(g) **Liens.** The government of Guam shall have a lien with respect to the Guam Territorial income tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States income tax. Such lien in respect of the Guam Territorial income tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income-tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

(h) **Jurisdiction of District Court; suits for recovery or collection of taxes; payment of judgment.** (1) Notwithstanding any provision of section 22 of this Act [48 USCS § 1424] or any other provision of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax.

(2) Suits for the recovery of any Guam Territorial income tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income-tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district court with respect to the United States income tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order the payment of such judgments out of any unencumbered funds in the treasury of Guam.

12-13-23

**Statement of Rights
(Non-Custody)**

"As a special agent, one of my functions is to investigate the possibility of criminal violations of the Internal Revenue laws, and related offenses."

"In connection with my investigation of your tax liability I would like to ask you some questions. However, first I advise you that under the 5th Amendment to the Constitution of the U.S. I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way. I also advise you that anything which you say and any documents which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of any attorney before responding."

"Do you understand these rights?"

Internal Revenue Service, Criminal Investigation Division
~~UNITED STATES CUSTOMS SERVICE~~
~~SPECIAL AGENT IN CHARGE~~
TUCSON, ARIZONA

INVENTORY OF SEIZED MERCHANDISE

approximate

TYPE OF SEARCH: _____ DATE OF SEARCH: _____ TIME OF SEARCH: 7:33-10:30

DESCRIPTION OF STRUCTURE OR CONVEYANCE: 2 BR apartment

LOCATION OF SEARCH: _____ STREET ADDRESS _____ CITY _____ ZIP CODE _____

ITEM #	DESCRIPTION OF ITEM	LOCATION DISCOVERED	DISCOVERING OFFICER	WITNESSING OFFICER
1	22 videotapes, 2 audio cassettes "The Hit" misc publications	Room D Living Room	EB	AD
2	Miscellaneous publications, pamphlets, newsletters	Room D Living Room	EB	AD
3	box containing documents & publications w/ anti-govt sentiment	Room A Foyer on floor	EB	AD
4	Uniqis Notebook computer S/N 0008439812	Room I on dresser	EB	AD
5	Toshiba Satellite Pro Notebook computer S/N 09636907	Room K on floor	EB	AD
6	Miscellaneous books, pamphlets and documents w/ anti-govt sentiment	Room C on shelf	EB	AD
7	license plate 101068 phone message books anti-government documents	Room C on desk	EB	AD
8	"Redemption" book and six audio cassettes	Room B on counter in briefcase	EB	AD
9	Approximately 131 3.5" floppy disks	Room K on shelf	EB	AD
10	documents pertaining to Mazda truck purchase misc anti-govt documents	Room C in file cabinet	EB	AD
11	Royal Signet 10 typewriter S/N 54467 w/ ribbons	Room C on file cabinet	EB	AD
12	Phone message books and various binders	Room C under desk	EB	AD
13	various binders containing anti-govt sentiment	Room C on shelf	EB	AD
14	audio cassettes and various documents and publications	Room C on shelf	EB	AD
15	box containing government regulation document	Room C on floor	EB	AD
16	Approximately 6 3.5" disks & various binder and anti-govt sentiment	Room C under desk	EB	AD
17	memorandum	Room C on wall	EB	AD
18	business card file	Room C desk drawer	EB	AD
A	micro-cassette tape	Room I on dresser	EB	AD
20	Approximately 61 3.5" disks and 2 CD ROMS, 4 cassettes	Room C in filing cabinet	EB	AD
21	IBM PC S/N 23YAB58 Imation superdisk S/N P159141004578		EB	AD

PAGE 1 OF 2 PAGE(S)

ACK 2

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

FILED
U.S. DISTRICT COURT
MACON, GEORGIA

MAR 24 AM 11:55

J. Johnson
DEPUTY CLERK

UNITED STATES OF AMERICA)
and SANDRA J. BUSH,)
Revenue Officer,)
)
Petitioners,)
)
v.)
)
)
Respondent.)

Case No: 5:98-MC-42-4(WDO)

NOTICE OF DISMISSAL

COME NOW Plaintiffs United States and Sandra J. Bush, Revenue Officer, and pursuant to Fed. R. Civ. P. 41(a)(1), hereby dismiss this Petition to Enforce Internal Revenue Service Summons, without prejudice. Plaintiff's show that Defendant Jerome Hughes never filed an answer or motion for summary judgment in this case, and that a dismissal is in order.

THIS 24th day of March, 1999.

H. Randolph Aderhold
H. RANDOLPH ADERHOLD
ASSISTANT U.S. ATTORNEY

.....
 *Employee No. 000000000
 * OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT
 * TRANSCRIPT DATE: 09/01/95
 *

Department of the Treasury - Internal Revenue Service

Document Locator Number 32647-059-23200-94	Taxpayer ID Number: 000-00-3005N
	Notice Date : 03/29/94
TERENCE R BOSTON	Type of Tax : INCOME
401 MADISON AVE	Master file Tax . : 20
TAFT UT 84403	Form Number : 1040
	Period ending ... : 12/31/86
8612	Abstract Number . : 004
3201-000	Civil Number : POA on File? No

Second Notice 05/10/94
 Third Notice 06/21/94
 Fourth Notice
 TDA
 53 Status
 Claim/Adj Pending . 06/29/94
 OIC Status
 Collection Expir .. 03/28/04
 Penalty/Interest ..

23C Date...03/29/94
 LYNN P BOSTON 000-00-7883
 NORM INT APL 032 LINCOLN
 870 1-8-94

Transfer Sch. Number..

TRANS DATE	DESCRIPTION	CC	DOCUMENT LOCATOR	POSTING DATE	TRANS AMOUNT
03/29/94	300 TAX DEF ASMN		32647-059-23200-94	03/16/94	3,239.00
03/29/94	340 RES INT ASMN		32647-059-23200-94	03/16/94	2,582.44
06/29/94	470 CLAIM PEND	90	32677-177-00101-94	07/02/94	0.00
10/30/89	700 CREDIT APPL		32658-222-50001-94	08/18/94	-1,934.35
11/14/89	700 CREDIT APPL		32658-222-50000-94	08/18/94	-2,310.21
			08/18/94	Account Balance:	1,576.88
			06/21/94	Accrued Penalty :	48.58
			06/21/94	Accrued Interest:	94.53

HISTORY

3177/470 per billie S Taft Tech. OSC
 999 999-9999 06/29/94 cc

2424's prepared to send to full pay this assessment
 06/29/94 zz

Non-Master File Assessment Voucher

1. Name and address			2. Document locator number (DLN)	
			3. Taxpayer identification number (TIN)	
4. Type of tax	5. Form number	6. Period	7. MFT code	8. Abn num
€ x			\$	
10. Penalty	I.R. Code Section or Type of Penalty	Trans. Code	Amount	
11. Interest			▶	
12. Total (Sum of Lines 9, 10, and 11)			▶ \$	
13. Reason for assessment				
14. Signature of preparer			15. Date	

Form **5734** (Rev. 1-91)

Cal No. 2772511

Date

Assessment Certificate

Summary Record of Assessments

1. Service center **Cincinnati**
 2. Date **June 28, 1982**
 3. Prepared by **R. Carter**
 4. Number **17-313**

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)					Total Assessments (1)	
	Tax & Penalty (a)		Interest (b)		Tax & Penalty (c)		Interest (d)		No. of Items (e)		
Withheld individual income and FICA	1,434,557,499	77	1,229,526	91	31,223	14	8,894	34	28	1,435,827,144	16
Individual income—other	969,052,434	22	1,101,945	20	1,417,152	18	283,901	52	1,945	971,855,433	12
Corporation income and excess profits	80,646,299	85	207,052	67	159,961	61	32,407	01	53	81,045,721	14
Excise	32,295,739	17	12,708	98	64,929	94	13,149	52	38	32,386,527	61
Estate and gift	2,755,952	49	117,475	55	57,772	66	9,845	17	13	2,941,045	87
Tax on carriers and their employees	204	94	18	60	-0	--	-0	--	0	223	54
Federal unemployment tax act	852,757	66	63,833	04	222	20	45	94	4	916,858	84
Total Assessments	2,520,160,888	10	2,732,560	95	1,731,261	73	348,243	50	2,081	2,524,972,954	28

5. Jeopardy Assessments Against Principal Taxpayers (Included in the assessments above)

6. Prepared From Accounting Assessment Journals

Date and Number Through Date and Number

BMF, IMF & IRA Service Center Recaps Cycle 8224

Number of principal taxpayers

For Assessment Week Ending June 28, 1982

Total assessed against principal taxpayers

BMF Jr1 4-6-11 IMF Jr1 4-6-12 IRA Jr1 4-6-13

Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in supporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

7. Date

June 28, 1982

8. Signature (For service center director of Internal Revenue)

Sylvia G. Herman

Assessment Officer

Summons Referral

(If more space is necessary, prepare attachments in quadruplicate.)

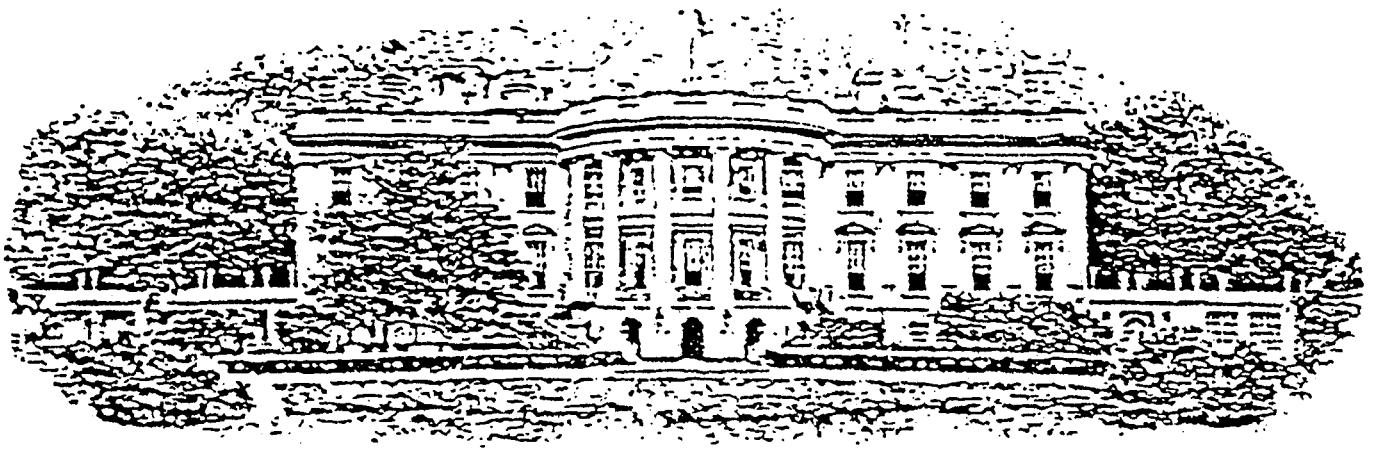
1. Name and address of person summoned		8. Taxpayer's name and last known address if different from item 1.	
2. Summons served at above address? <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)		9. Taxpayer's TIN	
3. Manner of service <input type="checkbox"/> personal service on person summoned <input type="checkbox"/> personal service on person authorized to accept service of process—name and title. <input type="checkbox"/> delivered to other person over 16 years old at last known address—name and relationship to person summoned: <input type="checkbox"/> left at last known address—not delivered to anyone: (specify method, i.e., slipped under door, attached to door, etc.)		10. Type of investigation <input type="checkbox"/> delinquent account <input type="checkbox"/> examination <input type="checkbox"/> delinquent return <input type="checkbox"/> other (specify) <input type="checkbox"/> criminal	
4. If third party summons, was notice given to all persons to whom records pertain? <input type="checkbox"/> Yes (Indicate in Section B whether petition to quash summons was filed, if notice(s) other than taxpayer, list names and addresses in Section C.) <input type="checkbox"/> No (Explain in Section C.) <input type="checkbox"/> Not a third party summons		11. Type of tax and periods involved (Explain in A. If periods in description of records are different from periods stated in summons caption.)	
5. Date of service Appearance date		12. All applicable tax periods included on summons? <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)	
6. Person summoned <input type="checkbox"/> did not appear <input type="checkbox"/> appeared but did not provide all summoned information.		13. Statute of limitations problems? <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No	
7. Does IRS possess any of summoned information? <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No		14. Tax liability involved assessed \$ _____ estimated \$ _____ (Explain in Section C.)	
		15. Taxpayer category (corporation, married individual, etc.; include spouse if applicable.)	
		16. Other civil, criminal, or administrative actions (Summons enforcement, suit, seizure, etc.) pending against taxpayer or person summoned? <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No	
		17. Has there been a referral of this or a related case to the Department of Justice? <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No	

A. Describe exact purpose of summons and relevance of summoned information to periods under investigation:

B. Reason for not complying, if known:

C. Other information: (include synopsis of attempts to obtain information before summons was issued, if summoned person is the taxpayer.)

Referring Officer's Name, Telephone Number, Office Location, and Office Symbols		Referring Officer's Signature	Date Referred
Issuing Officer's Name			Date Issued
Approved by (Signature and Title)—If Required	Date Approved	Reviewed by (Signature and Title)	Date Reviewed



PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

[GRACE COMMISSION]

A REPORT TO THE PRESIDENT

[Excerpts]

SUBMITTED TO THE EXECUTIVE COMMITTEE FOR
CONSIDERATION AT ITS MEETING ON JANUARY 15, 1984

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Importantly, any meaningful increases in taxes from personal income would have to come from lower and middle income families, as 90 percent of all personal taxable income is generated below the taxable income level of \$35,000.

Further, there isn't much more that can be extracted from high income brackets. If the Government took 100 percent of all taxable income beyond the \$75,000 tax bracket not already taxed, it would get only \$17 billion, and this confiscation, which would destroy productive enterprise, would only be sufficient to run the Government for seven days.

Resistance to additional income taxes would be even more widespread if people were aware that:

One-third of all their taxes is consumed by waste and inefficiency in the Federal Government as we identified in our survey.

Another one-third of all their taxes escapes collection from others as the underground economy blossoms in direct proportion to tax increases and places even more pressure on law abiding taxpayers, promoting still more underground economy -- a vicious circle that must be broken.

With two-thirds of everyone's personal income taxes wasted or not collected, 100 percent of what is collected is absorbed solely by interest on the Federal debt and by Federal Government contributions to transfer payments. In other words, all individual income tax revenues are gone before one nickel is spent on the services which taxpayers expect from their Government.

Our survey studied the small as well as the major items of cost savings, items of broad national impact as well as those of a more localized nature. I believe you will be interested in a few random examples of what we found:

- o In the Northwest, the Federal Power Marketing Administration is selling subsidized power at one-third of market rates. If the Federal power were priced at market, there would be a three-year

What Kind of Counterfeiting Operation the Government is Running'

RON PAUL
1200 GUYTON, TEXAS

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(713) 286-1000
LAW JOHNSON CONGRESSIONAL OFFICE
(713) 287-0200

August 27, 1979

St. Louis, Mo. 63129

Dear Mr. :

Thank you for your letter of August 20 and the enclosed copy of your letter to Mr. Volker.

Strictly speaking, it probably is not "necessary" for the federal government to tax anyone directly; it could simply print the money it needs. However, that would be too bold a stroke, for it would then be obvious to all what kind of counterfeiting operation the government is running. The present system combining taxation and inflation is akin to watering the milk: too much water and the people catch on.

Sincerely,

Ron Paul

Ron Paul
Member of Congress

*Ron Paul was re-elected
to Congress 11-5-96.*

SEIZED PROPERTY

Sec.
601.326 Seizure and forfeiture of personal property.

OFFERS IN COMPROMISE

601.327 Offers in compromise.

RULINGS

601.328 Rulings.

Subpart D—Provisions Special to Certain Employment and Excise Taxes

601.401 Employment taxes.
601.402 Sales taxes collected by return.
601.403 Miscellaneous excise taxes collected by return.
601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

Subpart E—Conference and Practice Requirements

601.501 Scope of conference and practice requirements; definitions.

GENERAL REQUIREMENTS

601.502 Requirements for conference—recognition to practice and, in certain cases, power of attorney or tax information authorization.
601.503 Requirements for filing evidence of recognition, power of attorney, and tax information authorization.
601.504 Requirement for execution, attestation, acknowledgment or witnessing, and certification of copies of power of attorney and tax information authorization.
601.505 Requirements for changing representation.
601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.
601.507 Evidence required to substantiate facts alleged in conferences.
601.508 Contest between representatives of a taxpayer.
601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

REQUIREMENTS FOR ALCOHOL, TOBACCO, AND FIREARMS ACTIVITIES

601.521 Requirements for conference and representation in conference.
601.522 Power of attorney.
601.523 Tax information authorization.
601.524 Execution and filing powers of attorney and tax information authorizations.
601.525 Certification of copies of documents.
601.526 Revocation of powers of attorney and tax information authorizations.
601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

Subpart F—Rules, Regulations, and Forms

Sec.
601.601 Rules and regulations.
601.602 Forms and instructions.

Subpart G—Records

601.701 Publicity of information.
601.702 Publication and public inspection.

AUTHORITY: The provisions of this Part 601 issued under 5 U.S.C. 301 and 552, unless otherwise noted.

SOURCE: The provisions of this Part 601 appear at 32 F.R. 16990, Nov. 22, 1967, unless otherwise noted.

Subpart A—General Procedural Rules

§ 601.101 Introduction.

(a) *General.* The Internal Revenue Service is a branch of the Treasury Department under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue and also of other functions relating to the administration and enforcement of laws applicable to alcohol and certain firearms which are in addition to those related to taxes. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director of International Operations administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations. For purposes of these procedural rules any reference to a district director or a district office includes the Director of International Operations or the Office of International Operations. If appropriate, generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment, collection, and enforcement of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment, collection, and enforcement functions are separately described in Subpart B of this part. A description of the rulemaking functions of the Treasury Department with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules of the Service with respect to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Titles 26 and 27 of the Code of Federal Regulations.

[32 F.R. 16990, Nov. 22, 1967, as amended at 33 F.R. 17234, Nov. 21, 1968]

§ 601.102 Classification of taxes collected by the Internal Revenue Service.

(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

- (1) Taxes collected by assessment.
- (2) Taxes collected by means of revenue stamps.

(b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:

(1) Taxes within the jurisdiction of the Tax Court of the United States. These include:

(i) Income and profits taxes imposed by chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.

(ii) Estate taxes imposed by chapter 3 of the 1939 Code and chapter 11 of the 1954 Code.

(iii) Gift tax imposed by chapter 4 of the 1939 Code and chapter 12 of the 1954 Code.

(2) Taxes not within the jurisdiction of the Tax Court of the United States. Taxes not imposed by chapter 1, 2, 3, or 4 of the 1939 Code or subtitle A or chapter 11 or 12 of the 1954 Code are within this class, such as:

(i) Employment taxes.
(ii) Various sales taxes collected by return,

(iii) Miscellaneous excise taxes collected by return, and

(iv) Miscellaneous excise taxes collected by sale of revenue stamps.

(3) The difference between these two main classes is that only taxes described in subparagraph (1) of this paragraph, i. e., those within the jurisdiction of the Tax Court, may be contested before an independent tribunal prior to payment. Taxes of both classes may be contested by first making payment, filing claim for refund, and then bringing suit to recover if the claim is disallowed or no decision is rendered thereon within six months.

(c) *Stamp taxes.* Taxes collected by means of revenue stamps may in special circumstances be collected by assessment, but references hereinafter to the assessment process do not contemplate taxes ordinarily collectible by means of stamps, except as specially stated. For provisions special to taxes collected by means of revenue stamps, see § 601.404. Taxes collectible by assessment may be collected by suit without assessment, but this is seldom done.

§ 601.103 Summary of general tax procedure.

(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the

1977
SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 600—[RESERVED]

PART 601—STATEMENT OF PROCEDURAL RULES

Subpart A—General Procedural Rules

- Sec.
- 601.101 Introduction.
 - 601.102 Classification of taxes collected by the Internal Revenue Service.
 - 601.103 Summary of general tax procedure.
 - 601.104 Collection functions.
 - 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
 - 601.106 Appellate functions.
 - 601.107 Intelligence functions.
 - 601.108 Review of overpayments exceeding \$100,000.
 - 601.109 Bankruptcy and receivership cases.

Subpart B—Rulings and Other Specific Matters

- 601.201 Rulings and determinations letters.
- 601.202 Closing agreements.
- 601.203 Offers in compromise.
- 601.204 Changes in accounting periods and in methods of accounting.
- 601.205 Tort claims.
- 601.206 Certification required to obtain reduced foreign tax rates under income tax treaties.

Subpart C—Provisions Relating to Distilled Spirits, Wines, Beer, Cigars, Cigarettes, Cigarette Papers and Tubes and Certain Firearms and Explosives

DISTILLED SPIRITS, WINES, AND BEER

- 601.301 Imposition of taxes, qualification requirements, and regulations.
- 601.302 Taxes.
- 601.303 Claims.
- 601.304 Preparation and filing of claims.
- 601.305 Offers in compromise.
- 601.306 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.
- 601.307 Rulings.
- 601.308 Conferences.
- 601.309 Representatives.
- 601.310 Forms.

CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

- 601.311 Imposition of taxes; regulations.
- 601.312 Qualification and bonding requirements.
- 601.313 Collection of taxes.
- 601.314 Assessments.

- 601.315 Claims.
- 601.316 Offers in compromise.
- 601.317 Rulings.
- 601.318 Forms.

FIREARMS AND EXPLOSIVES

- 601.319 Applicable laws.
- 601.320 Taxes relating to machine guns, destructive devices, and certain other firearms.
- 601.321 Commerce in firearms and ammunition.
- 601.321a Importation of arms, ammunition, and implements of war.
- 601.321b Commerce in explosives.
- 601.322 Rulings.
- 601.323 Assessments.
- 601.324 Claims.
- 601.325 Offers in compromise.

SEIZED PROPERTY

- 601.326 Seizure and forfeiture of personal property.

OFFERS IN COMPROMISE

- 601.327 Offers in compromise.

RULINGS

- 601.328 Rulings.

Subpart D—Provisions Special to Certain Employment and Excise Taxes

- 601.401 Employment taxes.
- 601.402 Sales taxes collected by return.
- 601.403 Miscellaneous excise taxes collected by return.
- 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

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- 601.501 Scope of conference and practice requirements; definitions.

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- 601.502 Requirements for conference—recognition to practice and, in certain cases, power of attorney or tax information authorization.
- 601.503 Requirements for filing evidence of recognition, power of attorney, and tax information authorization.
- 601.504 Requirement for execution, attestation, acknowledgment or witnessing, and certification of copies of power of attorney and tax information authorization.
- 601.505 Requirements for changing representation.
- 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.

Chapter 1—Internal Revenue Service

§ 601.101

- 601.507 Evidence required to substantiate facts alleged in conferences.
- 601.508 Contest between representatives of a taxpayer.
- 601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

REQUIREMENTS FOR ALCOHOL, TOBACCO, AND FIREARMS ACTIVITIES

- 601.521 Requirements for conference and representation in conference.
- 601.522 Power of attorney.
- 601.523 Tax information authorization.
- 601.524 Execution and filing powers of attorney and tax information authorizations.
- 601.525 Certification of copies of documents.
- 601.526 Revocation of powers of attorney and tax information authorizations.
- 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

Subpart F—Rules, Regulations, and Forms

- 601.601 Rules and regulations.
- 601.602 Forms and instructions.

Subpart G—Records (Note)

- 601.701 Publicity of information.
- 601.702 Publication and public inspection.

AUTHORITY: 5 U.S.C. 301 and 552, unless otherwise noted.

SOURCE: 32 FR 15990, Nov. 22, 1967, unless otherwise noted.

NOMENCLATURE CHANGE: 41 FR 44038, Oct. 6, 1976

Subpart A—General Procedural Rules

§ 601.101 Introduction.

(a) *General.* The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director of International Operations administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpay-

ers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations. For purposes of these procedural rules any reference to a district director or a district office includes the Director of International Operations or the Office of International Operations, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment, collection, and enforcement of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment, collection, and enforcement functions are separately described in Subpart B of this part. A description of the rule making functions of the Department of the Treasury with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules with respect to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the

extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Title 26 of the Code of Federal Regulations. The regulations administered by the Bureau of Alcohol, Tobacco and Firearms are contained in Titles 26 and 27 of the Code of Federal Regulations. See § 601.301.

(c) *Procedural rules governing economic stabilization matters.* The procedural rules of the Internal Revenue Service relating to economic stabilization matters administered by the Service are set forth in 6 CFR Part 401.

(d) *Application to Bureau of Alcohol, Tobacco and Firearms.* This part sets forth most of the procedural rules for the Bureau of Alcohol, Tobacco and Firearms. However, some of its procedural rules have been transferred to Part 71 of Title 27 of the Code of Federal Regulations (a portion of the Code of Federal Regulations exclusively devoted to alcohol, tobacco, firearms, and explosives matters). As used in this part, the terms "Alcohol, Tobacco, and Firearms Division", assistant regional commissioner (alcohol, tobacco and firearms)", and "chief special investigator (alcohol, tobacco and firearms)" shall be construed as meaning respectively "Bureau of Alcohol, Tobacco and Firearms", "regional director, Bureau of Alcohol, Tobacco and Firearms", and "special agent-in-charge, Bureau of Alcohol, Tobacco and Firearms". Also, with regard to the administration and enforcement of the laws applicable to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, firearms, and explosives, the terms "assistant regional commissioner", "Commissioner", and "Chief Counsel" used in Subpart C of this part, shall be construed as meaning respectively "regional director", "Director", and "Chief Counsel", the Bureau of Alcohol, Tobacco and Fire-

arms. The term "internal revenue region" or "region" when used in connection with documents filed with, or matters handled by, a regional director, shall mean an Alcohol, Tobacco and Firearms Region. The seven ATF regions and their geographical compositions are listed in 27 CFR 71.22(b)(3)(ii).

[37 FR 1016, Jan. 21, 1972, as amended at 38 FR 4955, Feb. 23, 1973; 41 FR 20880, May 21, 1976]

§ 601.102 Classification of taxes collected by the Internal Revenue Service.

(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

- (1) Taxes collected by assessment.
- (2) Taxes collected by means of revenue stamps.

(b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:

(1) Taxes within the jurisdiction of the U.S. Tax Court. These include:

- (i) Income and profits taxes imposed by chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.
- (ii) Estate taxes imposed by chapter 3 of the 1939 Code and chapter 11 of the 1954 Code.
- (iii) Gift tax imposed by chapter 4 of the 1939 Code and chapter 12 of the 1954 Code.
- (iv) Taxes imposed by chapter 42 of the 1954 Code.

(2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by chapter 1, 2, 3, or 4 of the 1939 Code or subtitle A or chapter 11 or 12 of the 1954 Code are within this class, such as:

- (i) Employment taxes,
- (ii) Various sales taxes collected by return,
- (iii) Miscellaneous excise taxes collected by return, and
- (iv) Miscellaneous excise taxes collected by sale of revenue stamps.

(3) The difference between these two main classes is that only taxes described in subparagraph (1) of this paragraph, i.e., those within the jurisdiction of the Tax Court, may be contested before an independent tribunal prior to payment. Taxes of both classes may be contested by first

making payment, filing claim for refund, and then bringing suit to recover if the claim is disallowed or no decision is rendered thereon within six months.

(c) *Stamp taxes.* Taxes collected by means of revenue stamps may in special circumstances be collected by assessment, but references hereinafter to the assessment process do not contemplate taxes ordinarily collectible by means of stamps, except as specially stated. For provisions special to taxes collected by means of revenue stamps, see § 601.404. Taxes collectible by assessment may be collected by suit without assessment, but this is seldom done.

[32 FR 15900, Nov. 22, 1967, as amended at 35 FR 7111, May 6, 1970; 38 FR 4955, Feb. 23, 1973]

§ 601.103 Summary of general tax procedure.

(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue, or the director of the regional service center after assessment issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners, in the case of annuitants and pensioners requesting withholding, and in the case of nonresident aliens, the income tax is collected in large part through withholding at the source. Another means of collecting the income tax is through payments of estimated tax which are required by law to be paid by certain individual and corporate taxpayers. Neither withholding nor payments of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

(b) *Examination and determination of tax liability.* After the returns are filed in the office of the district director of internal revenue or in the office of the director of a regional service center, they are sorted, classified, and processed. Many of these returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, he is ordinarily afforded certain appeal rights, including an opportunity to discuss the proposed adjustments (except mathematical errors) in a conference in the district director's office. If this conference results in agreement on the proposed adjustments, the taxpayer is requested to execute an agreement form. If the tax involved is an income, profits, estate, gift, or chapter 42 tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105(b)), the deficiency will be immediately assessed.

(c) *Disputed liability—(1) General.* If the conference on the proposed adjustments does not result in agreement, the taxpayer is given an opportunity to request that his case be considered by the regional Appellate Division, provided that Division has jurisdiction (see § 601.106(a)(3)). If the taxpayer requests such consideration, the case will be referred to the regional Appellate Division where the taxpayer may have another conference. The determination of tax liability by the Appellate Division is final insofar as the taxpayer's appellate rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director of International Operations exclusive settlement authority is vested in the regional Appellate Division having jurisdiction of the place where the taxpayer requests the Appellate Division conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the regional Appellate Divisions, the Washington, D.C., branch office of the Appellate Division for the Mid-Atlantic region assumes jurisdiction. The fact that conferences were held by the Office of International Operations either before or after the receipt of a protest does not foreclose a taxpayer

July 7, 1964, Pub. L. 88-356, title I, 78 Stat. 278.
July 26, 1963, Pub. L. 88-79, title I, 77 Stat. 102.
Aug. 9, 1962, Pub. L. 87-578, title I, 76 Stat. 339.
Aug. 3, 1961, Pub. L. 87-122, title I, 75 Stat. 250.
May 13, 1960, Pub. L. 86-455, title I, 74 Stat. 112.
June 23, 1959, Pub. L. 86-60, title I, 73 Stat. 101.
June 4, 1958, Pub. L. 85-439, title I, 72 Stat. 163.
July 1, 1957, Pub. L. 85-77, title I, 71 Stat. 265.
June 13, 1956, ch. 380, title I, 70 Stat. 264.
June 16, 1955, ch. 147, title I, 69 Stat. 149.
July 1, 1954, ch. 446, title I, 68 Stat. 372.
July 31, 1953, ch. 298, title I, 67 Stat. 273.
July 9, 1952, ch. 597, title I, 66 Stat. 457.
Aug. 31, 1951, ch. 375, title I, 65 Stat. 263.
Sept. 6, 1950, ch. 896, Ch. VII, title I, 64 Stat. 694.

-CITE-

48 USC Sec. 1402

01/05/99

-EXPCITE-

TITLE 48 - TERRITORIES AND INSULAR POSSESSIONS
CHAPTER 7 - VIRGIN ISLANDS
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 1402. Extension of industrial alcohol and internal revenue laws to Virgin Islands

-STATUTE-

Title III of the National Prohibition Act, as amended, and all provisions of the internal revenue laws relating to the enforcement thereof, are extended to and made applicable to the Virgin Islands, from and after August 27, 1935. The Insular Government shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in the Virgin Islands of the said Title III and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this section.

-SOURCE-

(June 26, 1936, ch. 830, title III, Sec. 329(c), 49 Stat. 1957.)

-REFTEXT-

REFERENCES IN TEXT

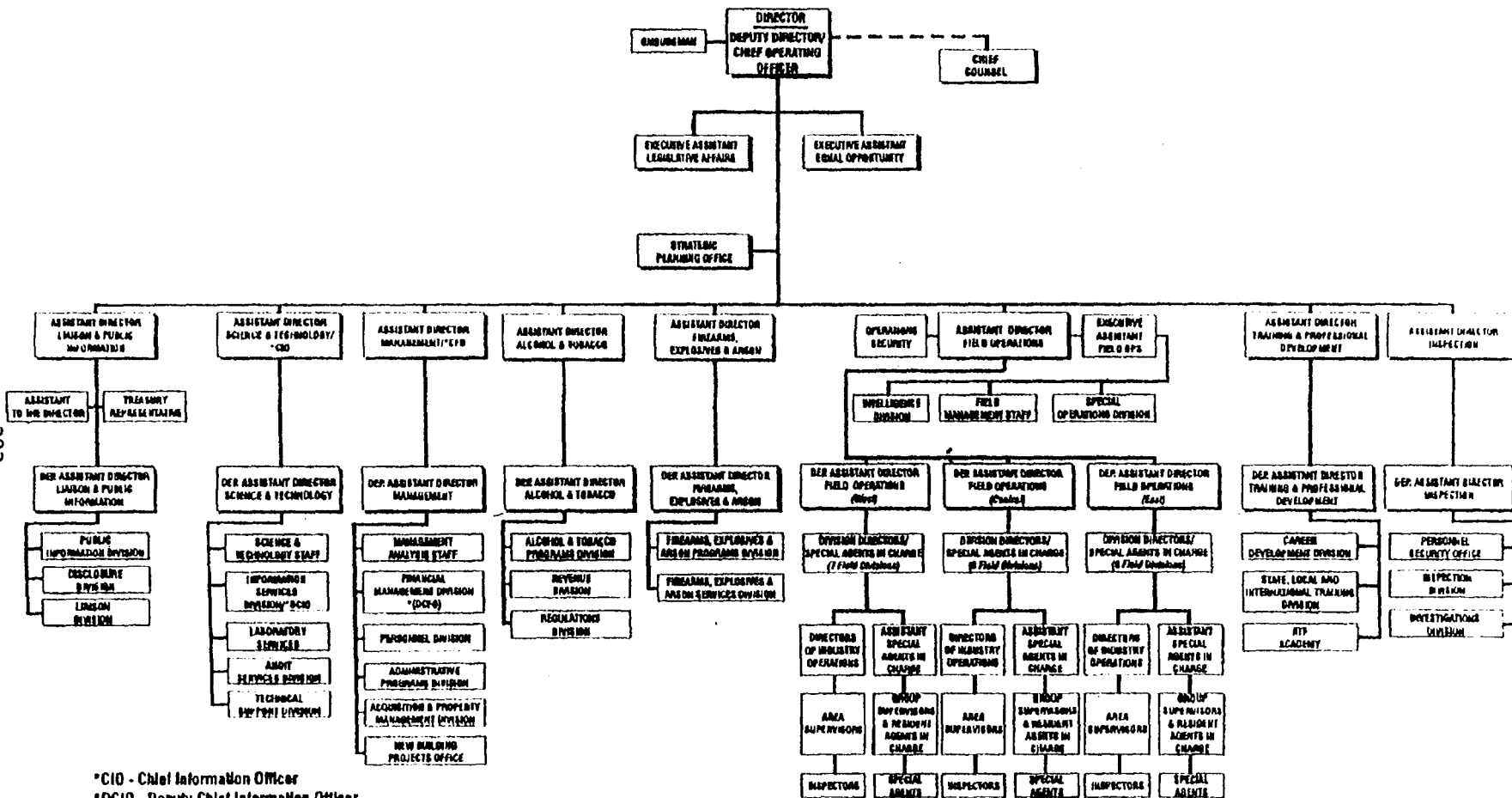
The National Prohibition Act, as amended, referred to in text, is act Oct. 28, 1919, ch. 85, 41 Stat. 305, as amended. Title III of such Act was classified principally to chapter 3 (Sec. 71 et seq.) of Title 27, Intoxicating Liquors, and was omitted from the Code in view of the incorporation of such provisions in the Internal Revenue Code of 1939, and subsequently into the Internal Revenue Code of 1986.

The internal revenue laws, referred to in text, are classified generally to Title 26, Internal Revenue Code.



**DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**

292



- *CIO - Chief Information Officer
- *DCIO - Deputy Chief Information Officer
- *CFO - Chief Financial Officer
- *DCFO - Deputy Chief Financial Officer

John W. Magaw MAR 17 1998
 DIRECTOR DATE

Nancy A. Taylor 3/29/98
 ASSISTANT SECRETARY FOR MANAGEMENT/CFO DATE

ABSTRACT OF JUDGMENT

NOTICE

Pursuant to Title 28, United States Code, Section 3201, this judgment, upon the filing of this abstract in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of 26 U.S.C. §6323(f), creates a lien on all real property of the defendant(s) and has priority over all other liens or encumbrances which are perfected later in time. The lien created by this section is effective, unless satisfied, for a period of 20 years and may be renewed by filing a notice of renewal. If such notice of renewal is filed before the expiration of the 20 year period to prevent the expiration of the lien and the court approves the renewal, the lien shall relate back to the date the judgment is filed.

USAO Number:	Court Number:
Names and Addresses of Parties against whom judgments have been obtained	Names of Parties in whose favor judgments have been obtained
SSN: .	UNITED STATES OF AMERICA

Amount of Judgment	Names of Creditors' Attorneys	Docketed
\$117,290.12	P. MICHAEL PATTERSON ATTN: FINANCIAL LITIGATION UNIT United States Attorney 111 N. Adams St., 4 th Floor Tallahassee, FL 32301	
TOTAL AMOUNT OF JUDGMENT		
PLUS POSTJUDGMENT INTEREST		

UNITED STATES OF AMERICA

CLERK'S OFFICE

U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
SS.

I CERTIFY that the foregoing is a correct Abstract of the Judgment entered or registered by this Court.

City _____ Date

ROBERT A. MOSSING, Clerk.

By _____, Deputy Clerk.

SECTION 8—INTERNAL REVENUE

The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue. (Promulgated June 10, 1963.)

* * * * *

EXECUTIVE ORDER No. 6639

(U. S. C., 1934 ed., Title 5, page 49)

TRANSFER OF FUNCTIONS

1 (a). The Bureau of Industrial Alcohol and the Office of Commissioner of Industrial Alcohol are abolished, and the authority, rights, privileges, powers, and duties conferred and imposed by law upon the Commissioner of Industrial Alcohol are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury.

(b). The authority, rights, privileges, powers, and duties conferred and imposed upon the Attorney General by the act of May 27, 1930 (ch. 342, 46 Stat. 427), entitled "An Act to transfer to the Attorney General certain functions in the administration of the National Prohibition Act, to create a Bureau of Prohibition in the Department of Justice, and for other purposes", so far as they are required to, or may, be exercised and performed under existing law, are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury: *Provided*, That the Attorney General shall continue to exercise the power and authority (a) to remit or mitigate forfeitures under the Internal Revenue laws and to determine liability for Internal Revenue taxes and penalties, in connection with violations of the National Prohibition Act occurring prior to the repeal of the eighteenth amendment, and (b) to institute suits upon any cause of action under the National Prohibition Act or under the Internal Revenue laws involving a violation of the National Prohibition Act, arising prior to, and/or not affected by, the repeal of the eighteenth amendment, and to compromise any such cause of action before or after suit is brought: *And provided further*, That the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, shall prescribe all regulations under the provisions of the National Prohibition Act, and all laws amendatory thereof or supplementary thereto, which were not rendered inoperative by the repeal of the eighteenth amendment, relating to permits, and he shall prescribe the form of all applications, bonds, permits, records, and reports under such acts.

TRANSFER OF OFFICIAL RECORDS AND PROPERTY

2 (a). The official records and papers on file in, and pertaining to the business of, the Bureau of Industrial Alcohol, together with the supplies, furniture, equipment, and other property of the United States in use in such Bureau, are transferred to the Bureau of Internal Revenue.

(b). The official records and papers on file in the Department of Justice pertaining to the functions transferred by this order to the Commissioner of Internal Revenue, together with the supplies, furniture, equipment, and other property of the United States in use in said Department in connection with the performance of such functions, are transferred to the Bureau of Internal Revenue.

TRANSFER OF PERSONNEL

3 (a). The officers and employees employed in, or under the jurisdiction of, the Bureau of Industrial Alcohol, are transferred to the Bureau of Internal Revenue, without change in classification or compensation.

(b). The officers and employees employed in, or under the jurisdiction of, the Alcoholic Beverage Unit of the Division of Investigation, Department of Justice, except those employed in, or under the jurisdiction of, the taxes and penalties section of said Unit, are transferred to the Bureau of Internal Revenue without change in classification or compensation.

(c). Officers and employees transferred to the Bureau of Internal Revenue hereunder, who do not already possess a competitive classified civil-service status, shall not acquire such status by reason of such transfer, except upon recommendation by the Secretary of the Treasury to the Civil Service Commission, subject to such noncompetitive tests of fitness as the Commission may prescribe; and no officer or employee so transferred may be retained in the Bureau of Internal Revenue without appropriate civil-service status for a period longer than 60 days from the effective date of this order.

USA TODAY
3.5.97

Dissatisfaction spurs look into tax agency

Rep. Rob Portman, R-Ohio, and Sen. Bob Kerrey, D-Neb., are co-chairmen of the National Commission on Restructuring the IRS. They talked with USA TODAY reporter Anne Willette about what's wrong with the IRS and how it can be fixed.

Q: Why is there a commission?

Kerrey: It's customer dissatisfaction, measured in a number of ways — taxpayers themselves saying they're dissatisfied with the service.

Q: Doesn't some of that come from having to pay taxes?

Portman: No one likes to pay taxes, but ... there's the concern that taxpayers' dollars are not being used wisely. In this computer snafu, the

employees, there is not that focus on the taxpayers as customer.

Q: What's the root cause of the IRS' problems?

Kerrey: We've got a good Internal Revenue Service compared to other nations. ... The root cause for me is the way we organize the effort. You're talking about an agency that is so different than any other agency in government. It is a seasonal business. It touches every single American household. And it's an annual event, it's a constant — you know these taxes are going to come due, and it funds everything else we do. ... This country can't get along without the tax-collection agency. It is vital to every other agency. Thus, it's

calling out for, particularly given the citizen attitude toward it, a fundamental reassessment of how it's organized.

Q: If the computer system were state of the art, would all problems be solved?

Kerrey: The tax system modernization failure is a symptom not a cause.

Portman: The modernization will help us with regard to taxpayer service. The phones will work better, and when you actually get through,

you'll have someone on the other end who will be able to help you in regard to your account. If the computerization is successful, it will be like calling up Visa and saying, "I just got a notice, where is my account as of right now?" ... But even the best computer system doesn't solve all of the problems. ... We're uncovering so many other problems — pointing the finger at Congress — in terms of simplification and constant change of the tax code.

Q: If the IRS has so many problems, why do taxpayers fear it?

Kerrey: If I'm an auditor and I've got the power to either initiate the audit or make the outcome the taxpayer's worst nightmare, the question is can I do that on the basis of not liking somebody? And the secondary question is, is there a review process that enables the citizen to appeal? ... This is an issue that's been raised so many times by individuals, small businesses and (tax-exempt organizations) that it's deserving of the commission's attention.



By Tim Dillon, USA TODAY

Repayment: Sen. Bob Kerrey, left, and Rep. Rob Portman co-chair the IRS restructuring commission.

number may be \$4 billion, it may be \$3 billion, but regardless, it's a huge number, and when we're trying to balance the budgets and make hard decisions in terms of helping those most in need, to have a waste of taxpayer funds like that is truly discouraging.

Q: The commission's goal is to "ensure the American public's faith in its government to collect revenue in a fair and courteous manner." Why does being fair and courteous matter?

Kerrey: It's a voluntary system. If people don't perceive it to be fair, people will not voluntarily comply. We are struggling to maintain ground on voluntary compliance.

Portman: One of the challenges this commission has is to begin a process ... of changing the culture of the IRS. And by that I mean a culture that encourages ... doing things in-house vs. looking outside for expertise, an insular culture, a secretive culture, but also a culture where, at least with regard to some IRS em-

IF THE SYSTEM IS VOLUNTARY, WHY DOES THE IRS THROW PEOPLE IN JAIL FOR NOT VOLUNTEERING?

AP Wirephoto. Copyright 1997. All rights reserved. It's this great time, or what is a service time of life.

IRS warns: Babies need SS numbers

By John C. K. Fisher
Kentucky Post staff reporter

The Internal Revenue Service has a New Year's warning: Your tax refund will be delayed if you omit any Social Security numbers from your income tax form.

And that includes newborns.

Beginning with returns filed next year, all babies born before November 1995 must have Social Security numbers. The IRS used to require only that babies who were 1 year old or older have the identifying numbers.

But the agency has lowered the age requirement to combat fraudulent claims for dependents, said Chris Kerns, spokesman for the IRS center in Covington.

The initial requirement for Social Security numbers for children was adopted about five years ago. The following year, millions of dependents weren't listed on individual tax returns, Kerns said.

"We found that people who had no kids were writing names down, possibly their pets' names," Kerns said. "They were being creative."

Next year, all children listed as dependents must have Social Security numbers included on the income tax form, Kerns said. The IRS will delay processing returns with missing or incorrect Social Security numbers.

"Eventually, (parents) would have to get a Social Security number for their child anyway. In the long run, it's going to save us and the taxpayers money by weeding out a lot of fraud," Kerns said.

Officials at the Social Security office in Ft. Mitchell are bracing for additional calls, said Norma Eilers, a field representative for that agency.

Anyone seeking information about Social Security numbers may call the local number at 344-8342 or the toll-free national number at 1-800-772-1213.

Meanwhile, the IRS will send out tax forms Jan. 2 and will process about 15 million individual returns from Ohio, Kentucky, Indiana, Michigan and West Virginia.

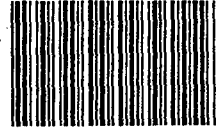
The IRS center in Covington also will process about 1.5 million 1040 EZ forms by telephone, Kerns said.

The IRS, which has about 5,000 workers during its peak processing season, still needs to hire about 500 clerks and data transcribers for full- and part-time work, paying \$7 to \$10 an hour, Kerns said.

Workers are required to have a high school diploma or its equivalent and pass a basic written examination.

For employment information, call 357-5559.

A2 THURSDAY, DECEMBER 21, 1995



NATION

Deadly shot at Ruby Ridge called illegal

The Associated Press

WASHINGTON — A Senate panel has concluded that an FBI sniper's shot that killed the wife of white separatist Randy Weaver in a standoff at Ruby Ridge, Idaho, was illegal.

In a report to be released today, the panel sharply criticizes other actions by federal law enforcement agencies in the 1992 incident, which also resulted in the deaths of the Weavers' 14-year-old son and a deputy U.S. marshal.

The Senate report concluded that the shot fired by the sniper, Lon Horiuchi, killing Vicki Weaver violated her constitutional rights.

Cinti, Enguiven

Cinti. Enguiven Dec. 27, 1995
N. Ky. Ed.

**Department of the Treasury
Internal Revenue Service**

1100 Commerce St., Code 5020-DAL
Dallas, TX 75242

Mary S. Durgin, Chief, Collection Division

December 13, 2000

Mr.

Re: Letter Received June 15, 2000

Dear Mr.

Thank you for your submission to the Treasury Inspector General's Office for Tax Administration (TIGTA). After their review of the matter, your letter was referred to this office for response. In your submission, you allege certain improprieties based upon your interpretation of Texas law as it impacts upon the Federal tax lien. Additionally you also inquire as to the propriety of the assessments against you based on the lack of a Form 23C, Record of Assessment, reflecting your name.

The Form 23C, or substitute, is a summary sheet used to certify assessment of a group of returns. Given its nature as a summary sheet it reflects totals for the group of returns and not individual names and amounts. You may request a certified transcript of your account from our Disclosure Office, which will include the date that the Form 23C relating to your return was signed.

The next area of your inquiry relates to the Federal tax lien. The Federal tax lien, unlike a lien on a home, automobile, or consumer items, arises not from a physical document pledging collateral but by operation of law. Section 6321 of the Internal Revenue Code states, in part, that:

"If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount ... shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person."

Accordingly, the lien automatically arises upon a failure to pay tax due. The Notice of Federal Tax Lien is filed in order to protect the Government's interest in the collection of the liability.

Based on this I regret to inform you that we are unable to honor your request to remove the liens. The Internal Revenue Code does grant the Service the capability of withdrawing the Notice of Federal Tax Lien (the public notice) under certain limited conditions. Those conditions are outlined in the Internal Revenue Manual, Part V, Section 5.12.2.23(1)(a thru d) and are summarized as follows:

1. The lien was filed prematurely,
2. The taxpayer has entered into an installment agreement,
3. A withdrawal of the notice would facilitate the collection of the account, or
4. It is in the best interest of the taxpayer and the United States that the lien be withdrawn.

A further explanation of your rights as a taxpayer can be found in Publication 1, Your Rights As A Taxpayer, which is enclosed.

If you wish to contact the Disclosure Office, you may do so by writing:

Internal Revenue Service - Disclosure Office
1100 Commerce St., Code 4005-DAL
Dallas, TX 75242

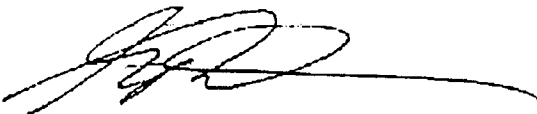
December 13, 2000

It is our desire to work with you to resolve your tax indebtedness in a fair and equitable manner. This begins by meeting with the Revenue Officer, Ms. Darden, assigned to your account. If you would like to discuss the resolution of your account, options available, and your rights as a taxpayer, I encourage you to contact Ms. Darden at (972) 308-7860 or by mail at:

Internal Revenue Service
ATTN: M. Darden
4050 Alpha Rd., MC: 5107-NWSAT
Farmers Branch, TX 75244

If you wish to discuss this letter, please contact me at (214) 767-8393.

Sincerely,



Glen Gardner
Staff Assistant, Collection Division
Badge Number 75-00868

cc: Ms. Darden
Disclosure
CCPAG:NO
TIGTA

Enclosures (1)

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Kalkines Warning

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Kalkines Warning

NORD V, Article 5, Section 4E

In an interview involving possible criminal conduct where prosecution has been declined by appropriate authority, at the beginning of the interview the employee shall be given a statement of the Kalkines warning. The warning shall contain the following language: "You are here to be asked questions pertaining to your employment with the Internal Revenue Service and the duties that you perform for IRS. You have the option to remain silent, although you may be subject to removal from your employment by the Service if you fail to answer material and relevant questions relating to the performance of your duties as an employee. You are further advised that the answers you give to the questions propounded to you at this interview, or any information or evidence which is gained by reason of your answers, may not be used against you in a criminal proceeding except that you may be subject to a criminal prosecution for any false answer that you may give."



When employees are given the Kalkines warning, they shall be given IRS Form 8112. Employees will acknowledge on IRS Form 8112 the receipt of the above warning. Employees shall be given a copy of the executed IRS Form 8112 for their own records.

Kalkines v. United States
473 F.2d 1391 (6th Cir. 1973)

IRS
^

Advice to Employees Facing Investigatory Interviews
by a TIGTA Representative

1. Employees *should cooperate* only to the extent required to IRS and TIGTA.
2. Employees *must demand* representation.
3. Employees *must demand* information concerning the nature of the interview.
4. If the interview is custodial and concerns potentially criminal matters, the employee *should refuse* to answer questions without the advice of a criminal attorney.
5. If the interview is noncustodial but concerns potentially criminal matters, the employee *should consult* with a criminal attorney.
6. If the subject of the investigation is potentially criminal but criminal prosecution has been declined, the employee *should* get the Kalkines warning.
7. If the matter is purely administrative, the employee *must cooperate* in the investigation and answer questions relating to the performance of his or her official duties.
8. Employees *should answer carefully*, without volunteering anything.
9. Follow the advice of counsel or union representative, *write down* the questions asked and the answers given.
10. *Answer* the questions *narrowly* and *volunteer nothing*.
11. An employee should *never answer* a question that he/she does *not understand*; he/she should ask to have the question clarified.
12. *Take breaks* as necessary; *stay calm* and professional.
13. *Sign nothing*. *Beware* of investigators' tricks.

6-4.000
CRIMINAL TAX
CASE PROCEDURES

-
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 - 6-4.011 Criminal Tax Manual and Other Tax Division Publications
 - 6-4.110 IRS Administrative Investigations
 - 6-4.120 Grand Jury Investigations -- Generally
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 - 6-4.360 Compromise of Criminal Liability/Civil Settlement
-

6-4.010 The Federal Tax Enforcement Program

The Federal Tax Enforcement Program is designed to protect the public interest in preserving the integrity of this nation's self-assessment tax system through vigorous, uniform enforcement of the internal revenue laws. The government's primary objective in criminal tax prosecutions is to get the maximum deterrent value from the cases prosecuted. To achieve

6-4.248 Status Reports

After criminal tax cases have been referred to a United States Attorney, it is essential that the Tax Division be kept advised of all developments through periodic case status reports. As the case progresses, the minimum information required for the records of the Tax Division is as follows:

- A. A copy of the indictment returned (or no billed), or the information filed, which reflects the date of the return (or no bill) or filing;
- B. Date of arraignment and kind of plea;
- C. Date of trial;
- D. Verdict and date verdict returned;
- E. Date and terms of sentence; and
- F. Date of appeal and appellate decision.

It is important that information regarding developments in pending cases be provided to the Tax Division in a timely manner in order that the Department's files reflect the true case status and so that, upon completion of the criminal case, the case can be timely closed and returned to the IRS for the collection of any revenue due through civil disposition.

6-4.249 Return of Reports and Exhibits

Upon completion of a criminal tax prosecution by a final judgment and the conclusion of appellate procedures, the United States Attorney should return to witnesses their exhibits. Grand jury materials should be retained by the United States Attorney under secure conditions, in accordance with the requirements of maintaining the secrecy of grand jury material. *See* Rule 6(e), Fed. R. Crim. P. All non-grand jury reports, exhibits, and other materials furnished by the IRS for use in the investigation or trial should be returned by certified mail, return receipt requested, to the appropriate District Director, IRS, Attention: Chief, CID, as directed in the Tax Division's letter authorizing prosecution or as directed by Regional Counsel in cases directly referred to the United States Attorney.



6-4.270 Criminal Division Responsibility

The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-operated gambling and amusement machines; malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws (but not omnibus clause); and unauthorized mutilation, removal or misuse of stamps. *See* 28 C.F.R. Sec. 0.70.

6-4 120 *Grand Jury Investigations*

Although a federal grand jury is empowered to investigate both tax and nontax violations of federal criminal tax laws, use of the grand jury to investigate in general solely criminal tax violations must first be approved and authorized by the Tax Division. *See* 28 C.F.R. § 0.70; 26 U.S.C. §6103(h).

Authority to authorize grand jury investigations of false and fictitious claims for tax refunds, in violation of 18 U.S.C. §286 and 18 U.S.C. § 287 (other than violations committed by a professional tax return preparer), has been delegated to all United States Attorneys by the Tax Division (see Tax Division Directive No. 96, dated December 31, 1991). This delegation of authority is subject to the following limitations:

(1) The case has been referred to the United States Attorney by Regional Counsel/District Counsel, Internal Revenue Service, and a copy of the request for grand jury investigation letter has been forwarded to the Tax Division, Department of Justice; and,

(2) Regional Counsel/District Counsel has determined, based upon the available evidence, that the case involves a situation where an individual (other than a return preparer as defined Section 7701(a)(36) of the Internal Revenue Code) for a single tax year, has filed or conspired to file multiple tax returns on behalf of himself/herself, or has filed or conspired to file multiple tax returns in the names of nonexistent taxpayers or in the names of real taxpayers who do not intend the returns to be their own, with the intent of obtaining tax refunds to which he/she is not entitled.

↙ **In all cases, a copy of the request for grand jury investigation letter, together with a copy of the Form 9131 and a copy of all exhibits, must be sent the Tax Division by overnight courier at the same time the case is referred to the United States Attorney. In cases involving arrests or other exigent circumstances, the copy of the request for grand jury investigation letter (together with the copy of the Form 9131) must also be sent to the appropriate Criminal Enforcement Section of the Tax Division by telefax.**

Any case directly referred to a United States Attorney's office for grand jury investigation which does not fit the above fact pattern or in which a copy of the request for grand jury investigation letter has not been forwarded to the Tax Division by overnight courier or by telefax by Regional Counsel/District Counsel will be considered an improper referral and outside the scope of the delegation of authority. In no such case may the United States Attorneys's office authorize a grand jury investigation. Instead, the case should be forwarded to the Tax Division for authorization.

This authority is intended to bring the authorization of grand jury investigations of cases under 18 U.S.C. §286 and 18 U.S.C. §287 in line with the United States Attorney's authority to authorize prosecution of such cases (*see* USAM, 6-4.243, *infra*). Because the authority to authorize prosecution in these cases was delegated prior to the time the Internal Revenue Service initiated procedures for the electronic filing of tax returns, false and fictitious claims for refunds which are submitted to the Service through electronic filing are not within the original delegation of authority to authorize prosecution. Nevertheless, such cases, subject to the limitations set out above, may be directly referred for grand jury investigation. Due to the unique problems posed by electronically filed false claims for refunds, Tax Division authorization is required if prosecution is deemed appropriate in an electronic filing case.

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(UNITED STATES ATTORNEYS' MANUAL)

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6-1.100 DEPARTMENT OF JUSTICE POLICY AND RESPONSIBILITIES

6-1.110 Other Relevant Manuals for U.S. Attorneys

6-4.000 CRIMINAL TAX CASE PROCEDURES

6-4.010 The Federal Tax Enforcement Program

6-4.020 Criminal Tax Manual and Other Tax Division Publications

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6-4.100 INVESTIGATIVE AUTHORITY AND PROCEDURE

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6-4.123 Joint U.S. Attorney-IRS Request to Expand Tax Grand Jury Investigations

6-4.124 Strike Force Requests

6-4.125 Drug Task Force Requests

investigation letter (together with the copy of the Form 9131) must also be sent to the appropriate Criminal Enforcement Section of the Tax Division by telefax.

Any case directly referred to a United States Attorney's office for grand jury investigation which does not fit the above fact pattern or in which a copy of the request for grand jury investigation letter has not been forwarded to the Tax Division by overnight courier or by telefax by Regional Counsel/District Counsel will be considered an improper referral and outside the scope of the delegation of authority. In no such case may the United States Attorneys's office authorize a grand jury investigation. Instead, the case should be forwarded to the Tax Division for authorization.

This authority is intended to bring the authorization of grand jury investigations of cases under 18 U.S.C. §286 and 18 U.S.C. §287 in line with the United States Attorney's authority to authorize prosecution of such cases (*see* USAM, 6-4.243, *infra*). Because the authority to authorize prosecution in these cases was delegated prior to the time the Internal Revenue Service initiated procedures for the electronic filing of tax returns, false and fictitious claims for refunds which are submitted to the Service through electronic filing are not within the original delegation of authority to authorize prosecution. Nevertheless, such cases, subject to the limitations set out above, may be directly referred for grand jury investigation. Due to the unique problems posed by electronically filed false claims for refunds, Tax Division authorization is required if prosecution is deemed appropriate in an electronic filing case.

6-4.121 *IRS Requests to Initiate Grand Jury Investigations*

CID generally relies upon the administrative process to secure evidence during an investigation. However, where CID is unable to complete its administrative investigation or otherwise determines that the use of administrative process is not feasible, it may request a grand jury investigation.

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Procedurally, the request must include a completed IRS Form 9131, a Request for Grand Jury Investigation signed by Regional or District Counsel, and whatever exhibits are available to support the request. *See* IRM 9267.2 *et seq.* Because this request is a referral of the matter to the Department of Justice, CID may no longer use administrative process. *See* USAM 6-4.115, *supra*.

6-4.122 *U.S. Attorney Initiated Grand Jury Investigations*

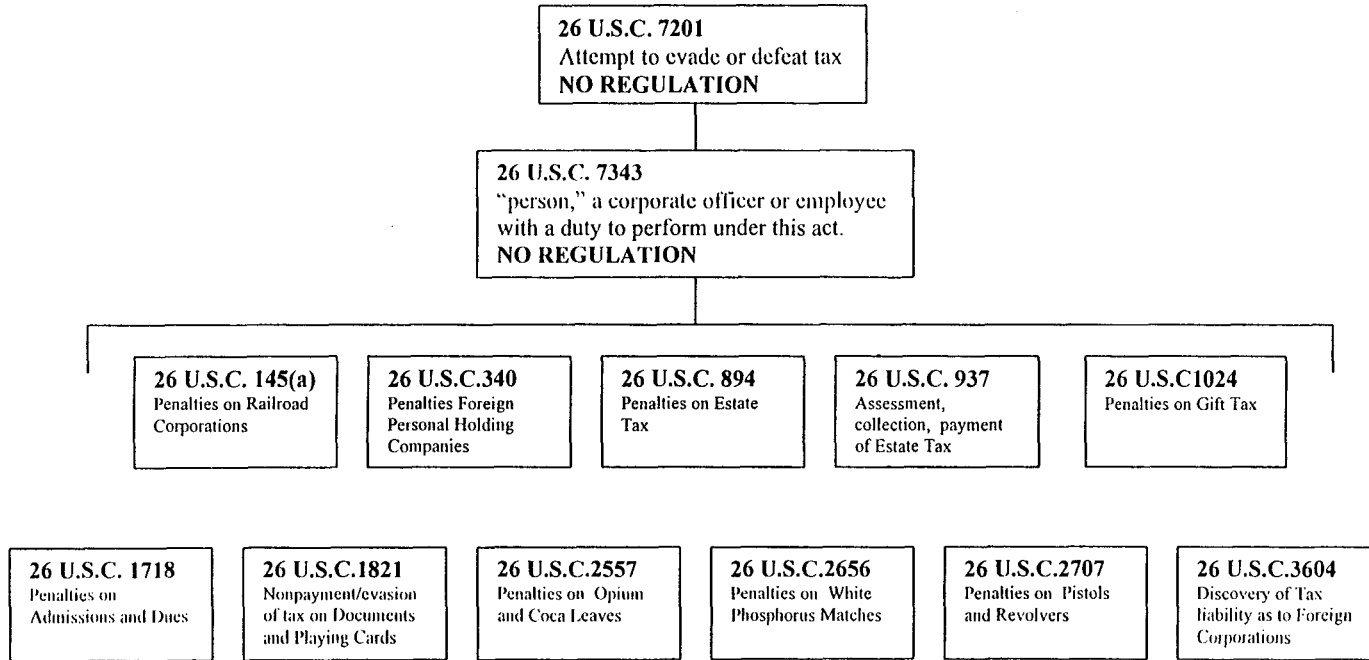
A. IRS Direct Referrals

Although the U.S. Attorney is authorized to conduct a Title 26 grand jury investigation in direct referral matters, the instances where such referrals require grand jury investigation will be rare. *See* USAM 6-4.243, *infra*.

B. Tax Division Referrals for Prosecution

The U.S. Attorney is authorized to conduct a Title 26 grand jury investigation into matters referred for prosecution by the Tax Division to the extent necessary to perfect the tax charges authorized for prosecution.

Statutory Authority of Title 26 sec. 7201



Derivation from:

United States Statutes At Large 53 Stat 1, Internal Revenue Code of 1939, February 10, 1939
United States Statutes At Large Vol. 68 A Stat 1, Internal Revenue Code of 1954, August 16, 1954
United States Statutes At Large 100 Stat 2085, Tax Reform Act of 1986, October 22, 1986

IRS LEVEL THREE

THE ANSWERS TO THESE QUESTIONS AND MANY, MANY MORE WILL BE ANSWERED IN OUR LEVEL THREE SEMINAR:

1. Is the IRS code a separate code from the other titles of the UNITED STATES CODE? (1 USC sec. 204)
2. Is the Guam Territorial Income Tax a separate tax? (48 USC 1421)
3. Do you have a complete copy of the 1939, 1954 or the 1986 IRC? (They are on the level 3 CD)
4. Do you know how to use the tables in the 1939 IRC to destroy any IRS charge?
5. What is the IRS form that you must sign before the IRS can access your third party records
6. What is the section in IRM 1100 that cites IRS/CID AUTHORITY?
7. Why is having a full text copy of 112 Stat. 720, so important when dealing with any IRS agent?
8. Filing a formal complaint with TIGTA involves collecting what specific set of facts?
9. According to IRM 5300 who is to sign and date a 23c (assessment certificate)?
10. What is a IRS Form 813 to be used for?
11. How is a IRS Form 4340 used by the IRS?
12. Where in Treasury Order 120-01 is the definition for a Revenue Officer?
13. What is so important about a , "Who Are You Letter"?
14. Why is asking for a 9984 Form thru a FOIA request so important?
15. Instead of using a 5734 Form the IRS will use a 5600 Form to what purpose?
16. What is the difference between a 23c, a 4340 and a 006 RACS report?
17. How would you go about obtaining a , "CERTIFICATE OF SEARCH"?
18. What is so important about a , "ABSTRACT OF JUDGMENT" and when is it to be used?
19. What is an IMFOLT and how do you obtain yours?
20. Why is obtaining a 5345 form so important and what will it showing you?
21. What steps must you take in order to secure a copy of your FBI FILE?
22. What is the expressly delegated authority for the DOJ to prosecute criminal tax cases?
23. Why might you wish to have a copy of Executive Order 6166?
24. What does 45 Stat. 1517, really refer to?
25. Treasury Order Number 4 is used by the IRS agents as their AUTHORITY to summons books and records but it was superceded by T.O. 150-23 which is really to be used for what purpose?
26. According to IRM 5400, the IRS must create a NMF before a what can be established?
27. What steps must the IRS follow in order to have a valid assessment?
28. Treasury Order 221 established what government bureau?
29. In order for the IRS Chief Counsel to request a Grand Jury Investigation against someone, they are required to fill out what FORM, which must be signed by whom?
30. Where would you access information concerning "cash merit pay awards"?
31. Under IRC sec. 3121 (b)(17) if you are a member of what group you are exempt from being taxed?
32. What happened on March 9th 1933?
33. What is the difference between. INCOME TAX LAWS and INTERNAL REVENUE LAWS?
34. What sections of the IRC only pertain BATF and what sections only apply to IRS and which regulations of title 26 CFR pertain to both?

IRS Level 111 seminar consists of three instructional videos of two hours each a 400 plus page manual and an unbelievable CD with almost 100,000 pages dealing with the IRS. To order send \$300.00 to: VIP, BOX 463, Owensville, Ohio 45160 or call 877-879-2788

The Eurismo Report

No. 86

The Derivations of Code Sections:

26 USC 6020(b)

26 USC 6321

26 USC 6331

26 USC 7201

26 USC 7203

26 USC 7206

26 USC 7212

of the
**Internal Revenue Codes of
1939 and 1954**

*Level III 3 videos, 426 page book, CD Rom with
100,279 pages*

All of this is in Level III

CD File Information

	File Name	Description	Pages
1	5c1200	5 CFR Sections 1200 to end (1999)	923
2	22c1	22 CFR Sections 1 to 299 (1999)	3,359
3	26c1_0	26 CFR Section 1.0-1 to 1.60 (1999)	583
4	26c1_61	26 CFR Section 1.61 to 1.169 (1999)	1,070
5	26c1_170	26 CFR Sections 1.170 to 1.300 (1999)	701
6	26c1_301	26 CFR Sections 1.301 to 1.400 (1999)	528
7	26c1_401	26 CFR Sections 1.401 to 1.440 (1999)	898
8	26c1_441	26 CFR Sections 1.441 to 1.500 (1999)	643
9	26c1_641	26 CFR Sections 1.641 to 1.850 (1999)	734
10	26c1_851	26 CFR Sections 1.851 to 1.907 (1999)	827
11	26c1_908	27 CFR Sections 1.908 to 1.1000 (1999)	773
12	26c1_1001	26 CFR Sections 1.1001 to 1.1400 (1999)	829
13	26c1_1401	26 CFR Sections 1.1401 to end (1999)	1,149
14	26c2	26 CFR Sections 2 to 29 (1999)	807
15	26c30	26 CFR Sections 30 to 39 (1999)	589
16	26c300	26 CFR Sections 300 to 499 (1999)	670
17	26c600	26 CFR Sections 600 to end (1999)	200
18	27c1	27 CFR Sections 1 to 199 (1998)	437
19	27c200	27 CFR Sections 200 to end (1999)	346
20	31c357_2	31 CFR Section 357.2 (1999)	6
21	42c400	42 CFR Sections 400 (1998)	2
22	1s23	Oath of Office	2
23	12s432	Provide Internal Revenue to support the Government	58
24	13s223	Internal Revenue to support the Government	85
25	13s445	Appropriations Act of 1865	19
26	13s469	To Amend 13 s 223 Act	20
27	14s4	To Declare the meaning of Parts of the Internal Revenue Act	2
28	14s98	To reduce Taxation & Amend 13 s 223 Act	77
29	14s471	To amend Internal Revenue Laws	16
30	15s125	Taxes on distilled Spirits and Tobacco	44
31	15s282	Compensation for Collector of internal revenue	2
32	16s52	Correct omissions in an Appropriations Act	1
33	16s179	Define intent of 15 Stat. 282	1
34	16s230	Appropriations Act	22
35	16s256	Reduce internal Taxes	17
36	16s419	Government for the District of Columbia	11
37	17s230	Reduce duties on Imports and reduce Internal Taxes	29
38	17s401	Reduction of Officers and Expenses of internal Revenue	3
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40	18s116	Government for the District of Columbia	6
41	18s307	Amend customs and internal-revenue laws	7
42	18s316	Correct errors and supply omissions in Revised Statutes	6
43	18s601	Title 35 INTERNAL REVENUE c. 1-2	87
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45	19s240	To perfect revision of US Statutes relating to the District of Columbia	15
46	20s102	Government for the District of Columbia	7
47	20s327	to amend the laws relating to internal revenue	27
48	37s81	Tax on white phosphorus matches	5
49	40s411	Trading With the Enemy Act	16
50	41s305	National Prohibition Act	20
51	42s222	National Prohibition Act - Supplemental	4
52	43s253	Revenue Act of 1924	104

All of this is in Level III

CD File Information

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55	47s169	Revenue Act of 1932	122
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57	48s680	Revenue Act of 1934	94
58	49s1014	Revenue Act of 1935	16
59	49s1939	Liquor Tax Administration Act	29
60	52s447	Revenue Act of 1938	139
61	53s1	Internal Revenue Code of 1939	750
62	59s512	Bretton Woods Agreement Act	6
63	60s238	Administrative Procedures Act	8
64	68As1	Internal Revenue Code of 1954	1,005
65	69s624	Oath of Office	2
66	80s250	Freedom of Information Act of 1966	2
67	81s54	Freedom of Information Act of 1967	3
68	88s1561	Freedom of Information Act of 1974	5
69	88s1896	Privacy Act of 1974	15
70	90s1198	Privacy Act of 1976	1
71	90s1247	Freedom of Information Act of 1976	1
72	91s179	Privacy Act of 1977	1
73	92s1225	Freedom of Information Act of 1978	1
74	96s2812	Privacy Act of 1980	16
75	98s3357	Freedom of Information Act of 1984	1
76	100s1783	Paper Work Reduction Act of 1986	21
77	100s2085	Tax Reform Act of 1986	880
78	100s3207	Freedom of Information Act of 1986	3
79	100s3341	Paper Work Reduction Act of 1986	24
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81	103s438	Paper Work Reduction Act of 1994	3
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87	IRM57	Internal Revenue Manual - 57	7
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92	Title 18	United States Code — Title 18	2,110
93	Title 22	United States Code — Title 22	17
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96	Title 28	United States Code — Title 28	2,603
97	Title 31	United States Code — Title 31	958
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