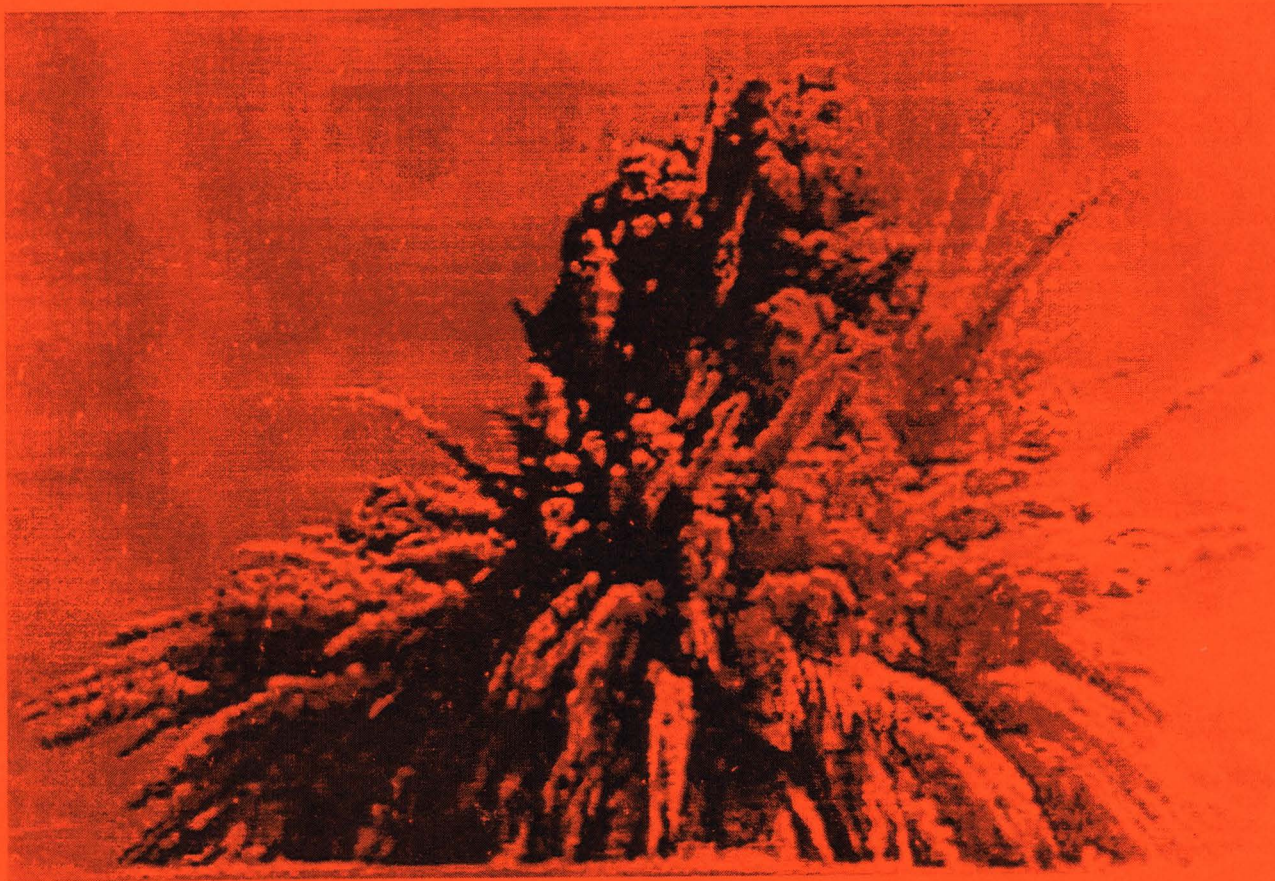


Bursting the Bubble of



Presumption

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-CITE-

28 USC APPENDIX - RULES OF EVIDENCE Rule 301

01/22/02

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

TITLE 28 - APPENDIX

FEDERAL RULES OF EVIDENCE

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

-HEAD-

Rule 301. Presumptions in General in Civil Actions and Proceedings

-STATUTE-

In all civil actions and proceedings not otherwise provided for by **Act of Congress** or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

-SOURCE-

(Pub. L. 93-595, Sec. 1, Jan. 2, 1975, 88 Stat. 1931.)

-MISC1-

NOTES OF ADVISORY COMMITTEE ON PROPOSED RULES

This rule governs presumptions generally. See Rule 302 for presumptions controlled by state law and Rule 303 (deleted) for those against an accused in a criminal case.

Presumptions governed by this rule are given the effect of

placing upon the opposing party the burden of establishing the nonexistence of the presumed fact, once the party invoking the presumption establishes the basic facts giving rise to it. The same considerations of fairness, policy, and probability which dictate the allocation of the burden of the various elements of a case as between the prima facie case of a plaintiff and affirmative defenses also underlie the creation of presumptions. These considerations are not satisfied by giving a lesser effect to presumptions. Morgan and Maguire, *Looking Backward and Forward at Evidence*, 50 Harv.L.Rev. 909, 913 (1937); Morgan, *Instructing the Jury upon Presumptions and Burden of Proof*, 47 Harv.L.Rev. 59, 82 (1933); Cleary, *Presuming and Pleading: An Essay on Juristic Immaturity*, 12 Stan.L.Rev. 5 (1959).

The so-called "bursting bubble" theory, under which a presumption vanishes upon the introduction of evidence which would support a finding of the nonexistence of the presumed fact, even though not believed, is rejected as according presumptions too "slight and evanescent" an effect. Morgan and Maguire, *supra*, at p. 913.

In the opinion of the Advisory Committee, no constitutional infirmity attends this view of presumptions. In *Mobile, J. & K.C.R. Co. v. Turnipseed*, 219 U.S. 35, 31 S.Ct. 136, 55 L.Ed. 78 (1910), the Court upheld a Mississippi statute which provided that in actions against railroads proof of injury inflicted by the running of trains should be prima facie evidence of negligence by the railroad. The injury in the case had resulted from a derailment. The opinion made the points (1) that the only effect of the statute was to impose on the railroad the duty of producing some evidence to the contrary, (2) that an inference may be

THE LAW OF NATIONS OR THE PRINCIPLES OF NATURAL LAW

Applied to the Conduct and to the Affairs of
Nations and of Sovereigns

BY E. DE Vattel

“For there is nothing on earth more acceptable to
that Supreme Deity who rules over this whole world than
the councils and assemblages of men bound together by
law, which are called States.”

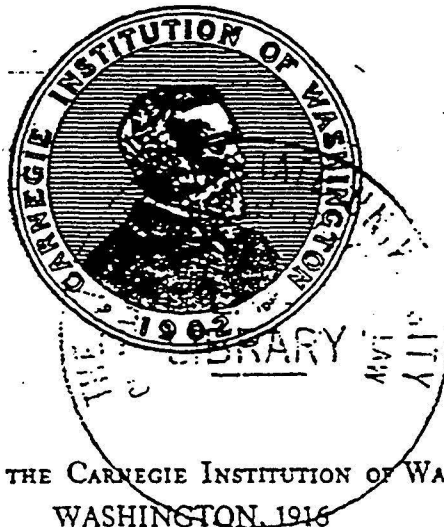
—Cicero, *Somnium Scipionis*.

VOLUME THREE

TRANSLATION OF THE EDITION OF 1758

BY CHARLES G. FENWICK

WITH AN INTRODUCTION BY ALBERT DE LAPRADELLE



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WASHINGTON, 1916

Exhibit _____

CHAPTER XIX.

One's Country, and Various Matters Relating to It.

All the lands inhabited by a Nation and subject to its laws form, as we have said, its domain, and are the common country of its citizens. We have been obliged to anticipate the definition of the term *one's country* (§ 122), in treating of the love of country, that noble virtue so necessary in a State. Presuming, therefore, that definition to be known, we shall proceed to explain certain matters connected with the subject and to clear up the difficulties it presents.

§ 211. What constitutes one's country.

The members of a civil society are its citizens. Bound to that society by certain duties and subject to its authority, they share equally in the advantages it offers. Its *natives* are those who are born in the country of parents who are citizens. As the society can not maintain and perpetuate itself except by the children of its citizens, these children naturally take on the status of their fathers and enter upon all the latter's rights. The society is presumed to desire this as the necessary means of its self-preservation, and it is justly to be inferred that each citizen, upon entering into the society, reserves to his children the right to be members of it. The country of a father is therefore that of his children, and they become true citizens by their mere tacit consent. We shall see presently whether, when arrived at the age of reason, they may renounce their right and the duty they owe to the society in which they are born. I repeat that in order to belong to a country one must be born there of a father who is a citizen; for if one is born of foreign parents, that land will only be the place of one's birth, and not one's country.

§ 212. Citizens and natives.

Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. *Permanent residents* are those who have been given the right of perpetual residence. They are a sort of citizens of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children.

§ 213. Residents.

A Nation, or the sovereign who represents it, may confer citizenship upon an alien and admit him into the body politic. This act is called *naturalization*. There are some States in which the sovereign can not grant to an alien all the rights of citizens; for example, that of holding public office; so that he has only authority to grant an imperfect naturalization, his power being limited by the fundamental law. In other States, as in England and Poland, the sovereign can not naturalize aliens without the concurrence of the representative assembly. Finally, there are others, such as England, in which the mere fact of birth in the country naturalizes the children of an alien.

§ 214. Naturalization.

It is asked whether the children born of citizens who are in a foreign country are citizens. The question has been settled by law in several countries, and such provisions must be followed. Arguing from the natural law, children follow the status of their parents and enter upon all their rights (§ 212); place of birth does not affect the rule and can not of itself afford any reason for depriving a child of a

§ 215. Children of citizens, born abroad.

AMERICAN JURISPRUDENCE

SECOND EDITION

A MODERN COMPREHENSIVE TEXT STATEMENT
OF AMERICAN LAW

STATE AND FEDERAL

COMPLETELY REVISED AND REWRITTEN
IN THE LIGHT OF MODERN AUTHORITIES AND DEVELOPMENTS
BY THE EDITORIAL STAFF OF THE PUBLISHERS

VOLUME 25

DOMICIL
TO
ELECTIONS §§ 1-182

THE LAWYERS CO-OPERATIVE PUBLISHING COMPANY, ROCHESTER, N. Y.
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1966

I. IN GENERAL

§ 1. Definitions.

"Domicil"¹ is derived from the Latin "domus" meaning dwelling house or home.² In popular usage it conveys the idea of a home, that is, a place where one lives.³ In the more restricted legal sense, domicil is a relationship which the laws creates between an individual and a particular locality or country.⁴ It is a place where a person has a settled connection for certain legal purposes, either because his home is there or because it is assigned to him by law.⁵ Domicil is the one technically pre-eminent headquarters which, as a result either of fact or of fiction, every person is compelled to have in order that by aid of it certain rights and duties which have been attached to it by the law may be determined.⁶

In addition to its being a permanent home, domicil involves an element of intention, that is, it is a place to which, during an absence, one has the intention of returning⁷ and from which he has no present intention of moving.⁸

These definitions are satisfactory only in a general way. They do not include all refinements of the use of the term, since the concept of domicil cannot be defined so as to embrace all its phases.⁹ The difficulty arises because "domicil" is never employed in the abstract, but always with reference to various specific relationships, rights, duties, and liabilities. Consequently the term has come to have different meanings even within the same jurisdiction, depending upon the connection in which it is used.¹⁰

1. Sometimes "domicile."

2. *Re Shultz' Estate*, 316 Ill App 540, 54 NE2d 577, revd on other grounds 384 Ill 148, 51 NE2d 140; *State v Garford Trucking, Inc.* 4 NJ 346, 72 A2d 851, 16 ALR2d 1407.

3. *State v Garford Trucking, Inc.*, supra.

Domicil is the building in which one lives and carries on the main activities of a home such as eating, sleeping, and receiving visitors. *Application of Davy*, 281 App Div 137, 120 NYS2d 450.

4. *Re Shultz' Estate*, 316 Ill App 540, 54 NE2d 577, revd on other grounds 384 Ill 148, 51 NE2d 140.

5. *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386; *Fisher & Van Gilder v First Trust Joint Stock Land Bank*, 210 Iowa 531, 231 NW 671, 69 ALR 1340; *Schillerstrom v Schillerstrom*, 75 ND 667, 32 NW2d 106, 2 ALR2d 271.

Restatement, CONFLICT OF LAWS § 9.

Domicil implies a nexus between person and place of such permanence as to control the creation of legal relations and responsibilities of the utmost significance. *Williams v North Carolina*, 325 US 226, 89 L ed 1577, 65 S Ct 1092, 157 ALR 1366, reh den 325 US 895, 89 L ed 2006, 65 S Ct 1560.

6. *Texas v Florida*, 306 US 398, 83 L ed 817, 59 S Ct 563, 121 ALR 1179; *Schultz v Chicago City Bank & Trust Co.* 384 Ill 148,

51 NE2d 140; *Commonwealth v Rutherford*, 160 Va 524, 169 SE 909, 90 ALR 348.

7. *Minick v Minick*, 111 Fla 469, 149 So 483; *Schultz v Chicago City Bank & Trust Co.* 384 Ill 148, 51 NE2d 140; *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386; *St. John v St. John*, 291 Ky 363, 163 SW2d 820; *Hanson v Hanson*, 150 Neb 337, 34 NW2d 388; *Israel v Israel*, 255 NC 391, 121 SE2d 713; *Stone v Phillips (Tex Civ App)* 171 SW2d 156, affd 142 Tex 216, 176 SW2d 932.

Domicil is the residence of a person at a particular place with the intention to remain there permanently or for an indefinite length of time or until some unexpected event shall occur to induce him to leave the same. *Reynolds v Lloyd Cotton Mills*, 177 NC 412, 99 SE 240, 5 ALR 284.

8. *Ex parte Weissinger*, 247 Ala 113, 22 So 2d 510; *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386; *St. John v St. John*, 291 Ky 363, 163 SW2d 820; *Shenton v Abbott*, 178 Md 526, 15 A2d 906; *Hanson v Hanson*, 150 Neb 337, 34 NW2d 388; *Kurilla v Roth*, 132 NJL 213, 38 A2d 862; *Israel v Israel*, 255 NC 391, 121 SE2d 713.

For a discussion of present intention as to a permanent abode, see § 24, infra.

9. *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386.

10. Apparent inconsistencies occur in the authorities because of the failure to clearly

§ 2. Necessity and singularity.

It is a fundamental rule in the law that all persons have a domicil somewhere.¹¹ This relationship is imposed upon a person by the law at his birth,¹² and while he may change his domicil upon obtaining the requisite capacity,¹³ he is not permitted to be without any domicil. In certain circumstances, however, one's domicil may not be recognized. For example, for voting purposes, a domicil once gained does not necessarily continue until a new one is acquired.¹⁴

Equally fundamental in law is the proposition that no person has more than one domicil at a time.¹⁵ Although it has been suggested that a person may have a domicil at one place for one purpose and at another place for another purpose,¹⁶ recognition for such a rule has been rejected as inconsistent with the meaning of the term "domicil."¹⁷ In any event, it is well established that a person can have only one domicil for one purpose.¹⁸

§ 3. Law governing determination.

It has been held that the question of domicil is to be determined by the law of the forum.¹⁹ Neither the Fourteenth Amendment nor the full faith

preserve the distinctions to be made on the basis of the purpose for which the determination of one's domicil is being legally ascertained. The question frequently arises where it becomes important to determine the domicil for the purpose of taxation, or for the purpose of attachment, or for the levy of execution, or for the exercising of the privilege of voting, or in determining the statute of limitations, or in ascertaining liability for the support of paupers, and perhaps other purposes. *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286.

To ascertain the meaning of the word "domicil" as used in the District of Columbia Income Tax Act the court must consider the congressional history of the act, the situation with reference to which it was enacted, and the existing judicial precedents, with which Congress may be taken to have been familiar in at least a general way. *District of Columbia v Murphy*, 314 US 441, 86 L ed 329, 62 S Ct 303.

See article, "Does domicil bear a single meaning?" by Professor Willis L. M. Reese in 55 *Columbia L Rev* pp 590 et seq.

11. *Taylor v Milam* (DC Ark) 89 F Supp 880; *Ex parte Phillips*, 275 Ala 80, 152 So 2d 144; *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286; *Irvin v Irvin*, 182 Kan 563, 322 P2d 794; *Ness v Commissioner of Corporations & Taxn.* 279 Mass 369, 181 NE 178, 82 ALR 977; *Kurilla v Roth*, 132 NJL 213, 38 A2d 862; *United States Trust Co. v Hart*, 150 App Div 413, 135 NYS 81, mod on other grounds 208 NY 617, 102 NE 1115; *Re Vail (Sur)* 153 NYS2d 713; *Reynolds v Lloyd Cotton Mills*, 177 NC 412, 99 SE 240, 5 ALR 284; *Schillerstrom v Schillerstrom*, 75 ND 667, 32 NW2d 106, 2 ALR2d 271; *Saalfeld v Saalfeld*, 86 Ohio App 225, 41 Ohio Ops 94, 55 Ohio L Abs 156, 89 NE2d 165.

But see *Re Grant's Estate*, 83 Misc 257,

144 NYS 567, where it is suggested that one may be without any domicil.

12. § 13, *infra*.

13. § 14, *infra*.

14. *Kreitz v Behrensmeyer*, 125 Ill 141, 17 NE 232.

See generally ELECTIONS (1st ed §§ 56 et seq.).

15. *Mitchell v Kinney*, 242 Ala 196, 5 So 2d 788; *Smith v Smith*, 45 Cal 2d 235, 288 P2d 497; *Boardman v Boardman*, 135 Conn 124, 62 A2d 521, 13 ALR2d 295; *Anderson v Pifer*, 315 Ill 164, 146 NE 171, 37 ALR 134; *Fisher & Van Gilder v First Trust Joint Stock Land Bank*, 210 Iowa 531, 231 NW 671, 69 ALR 1340; *Schillerstrom v Schillerstrom*, 75 ND 667, 32 NW2d 106, 2 ALR2d 271.

Restatement, CONFLICT OF LAWS § 11.

16. *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286.

17. The very meaning of domicil is the technically pre-eminent headquarters that every person is compelled to have in order that certain rights and duties that have been attached to it by the law may be determined; in its nature it is one, and if in any case two are recognized for different purposes, it is a doubtful anomaly. *Williamson v Osenton*, 232 US 619, 58 L ed 758, 34 S Ct 442, per Holmes, J.

18. *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286 (succession); *Everman v Thomas*, 303 Ky 156, 197 SW2d 58 (exercising right of suffrage); *Thayer v Boston*, 124 Mass 132 (taxation of personal property); *Re Lydig's Estate*, 191 App Div 117, 180 NYS 843 (estate transfer tax).

19. *Re Bain's Estate*, 104 Misc 508, 172 NYS 604.

and credit clause of the Federal Constitution requires uniformity in the decisions of the courts of different states on questions of domicile where the exertion of state power is dependent upon domicile within its boundaries.²⁰

II. OTHER TERMS DEFINED AND DISTINGUISHED

§ 4. Residence.

"Residence" may mean a temporary, permanent, or transient character; or it may mean one's fixed abode, depending upon the purpose of the particular object of its use.¹ In determining its meaning as it is used in particular pieces of legislation, its context within the statute and the legislative purpose are examined.² Thus, in some instances, residence requires mere physical presence,³ while in others something more than physical presence is required⁴ and the element of intent becomes material,⁵ even where "residence" is not deemed to be the equivalent of "domicil."⁶

By comparison, domicile is said to be inclusive of residence,⁷ having a broader

The Restatement, CONFLICT OF LAWS, provides that (1) a question of domicile as between the state of the forum and another state is determined by the law of the forum, and (2) a question of domicile as between one and another of several states other than the forum, the law of each of which differs from that of the other and from that of the forum, is determined by the law of the forum. Restatement, CONFLICT OF LAWS § 10. Restatement, CONFLICT OF LAWS 2d, Tentative Draft No. 2 (1954), changes § 10 to provide that the forum uses its own rules of domicile except when applying the conflict of laws rules of another state.

20. § 102, *infra*.

1. *Switzerland Gen. Ins. Co. v Gulf Ins. Co.* (Tex Civ App) 213 SW2d 161, error dismd.

While the meaning of domicile is steadfast, a residence has an evasive way about it, having as many colors as Joseph's coat. *Weible v United States* (CA9 Cal) 244 F2d 158.

2. *Stadmuller v Miller* (CA2 NY) 11 F2d 732, 45 ALR 895; *State v Garford Trucking, Inc.* 4 NJ 346, 72 A2d 851, 16 ALR2d 1407; *Phillips v South Carolina Tax Com.* 195 SC 472, 12 SE2d 13.

"Residence" has no fixed, exact meaning in the law, but may have a variety of meanings dependent upon the context in which it is employed as well as the subject matter involved and the purposes of such subject matter. *Hughes v Illinois Public Aid Com.* 2 Ill 2d 374, 118 NE2d 14, 43 ALR2d 1421.

A statutory statement of rules for determining residence, although applying specifically only to voters, may be accepted as declaratory of general rules for determining residence whatever the issue. *Hiatt v Lee*, 48 Ariz 320, 61 P2d 401, 107 ALR 444.

3. *Weible v United States* (CA9 Cal) 244 F2d 158; *Fuller v Hofferbert* (CA6 Ohio)

204 F2d 592; *Carlson v District Court of Denver*, 116 Colo 330, 180 P2d 525; *Brown v Brown* (Fla App) 123 So 2d 382; *Re Quale*, 213 Minn 421, 7 NW2d 153; *Re Newcomb's Estate*. 192 NY 238, 84 NE 950.

4. *Fisher & Van Gilder v First Trust Joint Stock Land Bank*, 210 Iowa 531, 231 NW 671, 69 ALR 1340.

The term "resident" or "residence" imports a fixed abode for the time being, as contradistinguished from a place of temporary sojourn, so that a mere transient is not a resident. *Stadmuller v Miller* (CA2 NY) 11 F2d 732, 45 ALR 895.

The term "resident within," as used in the Trading With the Enemy Act, implies something more than mere physical presence and something less than domicile. *Guessefeldt v McGrath*, 342 US 308, 96 L ed 342, 72 S Ct 338.

Although residence generally implies a less permanent attachment to the place than "domicil," it always demands a more permanent connection than proved by the libellant's 8 weeks' involuntary stay in hospitals and continued sojourn in the district after his release because of his interest in the outcome of the pending suit. *Carroll v United States* (CA2 NY) 133 F2d 690.

5. *People ex rel. Heydenreich v Lyons*, 374 Ill 557, 30 NE2d 46, 132 ALR 511.

6. Two elements have been held necessary to create a "residence": (1) bodily presence in a place, and (2) the intention of remaining in that place; neither alone is sufficient to create a legal residence. *Hughes v Illinois Public Aid Com.* 2 Ill 2d 374, 118 NE2d 14, 43 ALR2d 1421.

7. *Central Mfrs. Mut. Ins. Co. v Friedman*, 213 Ark 9, 209 SW2d 102, 1 ALR2d 557; *Smith v Smith*, 45 Cal 2d 235, 288 P2d 497; *State v Garford Trucking, Inc.* 4 NJ 346, 72 A2d 851, 16 ALR2d 1407.

and more comprehensive meaning than residence.⁸ Residence, together with the requisite intent, is necessary to acquire domicil,⁹ but actual residence is not necessary to preserve a domicil after it is once acquired.¹⁰ Consequently, one may be a resident of one jurisdiction while having a domicil in another.¹¹ And while every person has one and only one domicil, a person may have no place which can be called his residence¹² or he may have several such places.¹³

Sometimes the terms "domicil" and "residence" are used synonymously,¹⁴ but more frequently the words are held not to be convertible and have been distinguished.¹⁵ Whether the word "residence" is synonymous with "domicil" is a question of some difficulty, and the ultimate decision must be made from a consideration of the context in which it is employed and the subject matter involved.¹⁶

Where the parties to a contract have manifested an intent that the word "residence" as used therein should be equivalent to "domicil," the courts will so construe the contract.¹⁷

8. *Draper v Draper*, 107 Ohio App 32, 7 Ohio Ops 2d 354, 78 Ohio L Abs 5, 151 NE 2d 379.

"Domicil" is the location with which, for legal purposes, a person is considered to have the most settled and permanent connection, the place where he intends to remain and to which, whenever he is absent, he has the intention of returning, but which the law may also assign to him constructively; whereas "residence" connotes any factual place of abode of some permanency, more than a mere temporary sojourn. *Smith v Smith*, 45 Cal 2d 235, 288 P2d 497.

9. § 17, *infra*.

10. *Krone v Cooper*, 43 Ark 547.

11. *Ex parte Weissinger*, 247 Ala 113, 22 So 2d 510; *D'Elia & Marks Co. v Lyon* (Mun Ct App Dist Col) 31 A2d 647; *Williams v Williams*, 191 Ga 437, 12 SE2d 352; *Schultz v Chicago City Bank & Trust Co.* 384 Ill 148, 51 NE2d 140; *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386; *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286.

Annotation: 26 ALR 188.

12. *Warren v Warren*, 73 Fla 764, 75 So 35; *North Yarmouth v West Gardiner*, 58 Me 207; *Hughes v Lucker*, 233 Minn 207, 46 NW2d 497.

13. *Smith v Smith*, 45 Cal 2d 235, 288 P2d 497; *Re Jones*, 192 Iowa 78, 182 NW 227, 16 ALR 1286; *State v Garford Trucking, Inc.* 4 NJ 346, 72 A2d 851, 16 ALR2d 1407.

For purposes pertaining to the registration of motor vehicles, a person may be a resident of more than one state. *Robinson v Fix*, 113 Fla 151, 151 So 512.

14. *Stadtmuller v Miller* (CA2 NY) 11 F2d 732, 45 ALR 895; *Sweeney v District of Columbia*, 72 App DC 30, 113 F2d 25, 129 ALR 1370, cert den 310 US 631, 84 L ed 1402, 60 S Ct 1082; *Smith v Smith*, 45 Cal

2d 235, 288 P2d 497; *Irvin v Irvin*, 182 Kan 563, 322 P2d 794.

Annotation: 12 ALR2d 759, § 3 (venue statutes).

While the term "residence" has a much narrower technical significance than the term "domicil," the two terms are almost universally used interchangeably in statutes. *St. John v St. John*, 291 Ky 363, 163 SW2d 820.

Although the terms "residence" and "domicil" have different meanings, they frequently bear an important relationship to each other. *Board of Education v Dille*, 109 Ohio App 344, 11 Ohio Ops 2d 139, 165 NE2d 807.

15. *Missouri Pacific R. Co. v Lawrence*, 215 Ark 718, 223 SW2d 823, 12 ALR2d 748; *Newman v Graham*, 82 Idaho 90, 349 P2d 716, 83 ALR2d 492; *Croop v Walton*, 199 Ind 262, 157 NE 275, 53 ALR 1386; *State ex rel. Rankin v Peisen*, 233 Iowa 865, 10 NW 2d 645; *State v Garford Trucking, Inc.* 4 NJ 346, 72 A2d 851, 16 ALR2d 1407; *Schillerstrom v Schillerstrom*, 75 ND 667, 32 NW 2d 106, 2 ALR2d 271; *Hiles v Hiles*, 164 Va 131, 178 SE 913, 106 ALR 1 (residence and domicil for purpose of jurisdiction in divorce suit).

When used in statutes the term "residence" is ordinarily interpreted by the courts as meaning "domicil," but subject to important exceptions. Broad generalization must be indulged in with caution. *Fisher & Van Gilder v First Trust Joint Stock Land Bank*, 210 Iowa 531, 231 NW 671, 69 ALR 1340.

"Domicil" is distinguished from "residence" or "inhabitaney," the three terms not being exactly convertible. *Reynolds v Lloyd Cotton Mills*, 177 NC 412, 99 SE 240, 5 ALR 284.

16. *Stadtmuller v Miller* (CA2 NY) 11 F 2d 732, 45 ALR 895; *Schillerstrom v Schillerstrom*, 75 ND 667, 32 NW2d 106, 2 ALR2d 271; *Phillips v South Carolina Tax Com.* 195 SC 472, 12 SE2d 13.

17. *Laue v Grand Fraternity*, 132 Tenn 235, 177 SW 941 (beneficial insurance).

§ 5. — With reference to particular matters.

Examples of the synonymous or convertible use of the terms "residence" and "domicil" are found in connection with jurisdiction of the courts,¹⁸ including jurisdiction over divorce suits,¹⁹ probate matters,²⁰ guardianship,¹ minors,² venue,³ voting,⁴ eligibility for public office,⁵ the place at which personalty or intangibles are to be taxed,⁶ and poor relief.⁷ On the other hand, although not without exception, the terms "domicil" and "residence" have been regarded as not synonymous in statutes governing attachments⁸ or regulating service of process,⁹ in statutes setting forth residence requirements entitling children to school privileges,¹⁰ or in respect of the running of the statute of limitations against residents.¹¹

§ 6. — Legal residence.

A distinction between "legal residence" and "actual residence" has been recognized;¹² "actual residence" has connotations of a more temporary character,¹³ while the phrase "legal residence" is sometimes used as the equivalent of domicil.¹⁴

18. *Estate of Schoof v Schoof*, 193 Kan 611, 396 P2d 329.

19. See 24 Am Jur 2d, DIVORCE AND SEPARATION § 247.

20. *Re Glassford's Estate*, 114 Cal App 2d 181, 249 P2d 908, 34 ALR2d 1259; *Shenton v Abbott*, 178 Md 526, 15 A2d 906.

For the purpose of determining the question of jurisdiction of proceedings to probate a will, "residence" is synonymous with "domicil." *Re Daggett*, 255 NY 243, 174 NE 641, 75 ALR 1251.

In statutes providing for the qualifications of executors or administrators it is held in some instances that "residence" is synonymous with "domicil," while a contrary conclusion is reached in others. *Re Cardoner*, 27 NM 337, 201 P 1051, 18 ALR 575, wherein it was held that the statute required only actual residence.

1. See GUARDIAN AND WARD (1st ed § 25).

2. In a statute providing that proceedings to remove disabilities of a minor shall be instituted in the county where he resides, the word "resides" does not mean his bodily presence, but his legal domicil, which is that of his father. *Gulf, C. & S. F. R. Co. v Lemons*, 109 Tex 244, 206 SW 75, 5 ALR 943.

3. See VENUE (1st ed § 28 Supp).

4. See ELECTIONS (1st ed § 56).

5. See PUBLIC OFFICERS AND EMPLOYEES (1st ed § 46).

6. *McIntosh v Maricopa County*, 73 Ariz 366, 241 P2d 801, 31 ALR2d 770; *Ness v Commissioner of Corporations & Taxn.* 279 Mass 369, 181 NE 178, 82 ALR 977.

Annotation: 82 ALR 982.

Domicil, as distinguished from residence in

the more ordinary and usual sense, fixes the situs for the taxation of intangible property. *Commonwealth v Kernochan*, 129 Va 405, 106 SE 367, 30 ALR 601.

7. See WELFARE LAWS (1st ed, POOR AND POOR LAWS § 23).

8. See 6 Am Jur 2d, ATTACHMENT AND GARNISHMENT § 224.

9. *Hughes v Lucker*, 233 Minn 207, 46 NW 2d 497.

The terms "residence" and "post office" are not interchangeable and synonymous. *Atwood v Tucker*, 26 ND 622, 145 NW 587.

However, the word "resident," as used in a statute providing for service of process upon a "resident" of the state who is outside the state, is used in reference to domicil or domiciliary. *Smith v Smith*, 45 Cal 2d 235, 288 P2d 497.

10. See SCHOOLS (1st ed § 152).

11. See LIMITATION OF ACTIONS (1st ed § 218).

12. *Kollman v McGregor*, 240 Iowa 1331, 39 NW2d 302; *Baker v Baker, E. & Co.* 162 Ky 683, 173 SW 109, affd 242 US 394, 61 L ed 386, 37 S Ct 152; *Bradshaw v Bradshaw (Mo)* 166 SW2d 805; *Wilson v Hoisington*, 110 Mont 20, 98 P2d 369; *Phillips v South Carolina Tax Com.* 195 SC 472, 12 SE2d 13.

A person may have a legal residence in one county and actually be living in another. *Ex parte Weissinger*, 247 Ala 113, 22 So 2d 510.

13. *Kollman v McGregor*, 240 Iowa 1331, 39 NW2d 302

14. *Phillips v South Carolina Tax Com.* 195 SC 472, 12 SE2d 13.

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AMERICAN JURISPRUDENCE

SECOND EDITION

A MODERN COMPREHENSIVE TEXT STATEMENT
OF AMERICAN LAW

STATE AND FEDERAL

COMPLETELY REVISED AND REWRITTEN
IN THE LIGHT OF MODERN AUTHORITIES AND DEVELOPMENTS
BY THE EDITORIAL STAFF OF THE PUBLISHERS

VOLUME 3

ADVANCEMENTS
TO
ALIENS AND CITIZENS

THE LAWYERS CO-OPERATIVE PUBLISHING COMPANY, ROCHESTER, N. Y.
BANCROFT-WHITNEY COMPANY, SAN FRANCISCO, CALIF.

1962

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Exhibit

§ 200. Right of defense, with counsel; counterclaim, setoff, and third-party claims or proceedings

§ 201. Continuance

§ 202. Appeal

I. IN GENERAL

§ 1. Generally; definitions and distinctions.

In the popular and appropriate sense of the term, a "citizen" is one who by birth, naturalization, or other means is a member of an independent political society. The derivation of the word from the Latin "civitas" conveys the idea of connection or identification with the state or government and participation in its functions.¹ Citizen is the antithesis of alien.² The term "alien" is derived from the Latin "alienus," and signifies one born in a strange country. As generally understood in the United States, an alien is a person born in another country whose parents are not citizens of this country, and who has not been naturalized here.³ The term "alien" is defined by statute as any person not a citizen or national of the United States.⁴ The word "alien" suggests a person subject to a foreign sovereignty.⁵ The term includes subjects and citizens of foreign countries, and not merely persons resident in the United States who owe allegiance elsewhere.⁶ Residence in the United States is without effect to change the status of a person as an alien; and it is now settled that the term "aliens" as used in the immigration laws includes not only "alien immigrants," but every alien, irrespective of any previous residence or domicile in this country.⁷ To this definition may be added that small but distinct class of persons who, having been citizens of the United States, have expatriated themselves.⁸ Such persons are sometimes called aliens by election.⁹

1. § 115, *infra*.

2. *Low Wah Suey v Backus*, 225 US 460, 56 L ed 1165, 32 S Ct 734; *Buffington v Grosvenor*, 46 Kan 730, 27 P 137; *O'Connor v State* (Tex Civ App) 71 SW 409, *revd* on other grounds 96 Tex 484, 73 SW 1041, 74 SW 899, *affd* 202 US 501, 50 L ed 1120, 26 S Ct 726.

For the address, telephone number, and chief officer of the Immigration and Naturalization Service, see AM JUR 2d DESK BOOK, Document 59.

3. *Lehigh Valley Coal Co. v Washko* (CA2 NY) 231 F 42; *Behrensmeyer v Kreitz*, 135 Ill 591, 26 NE 704; *Breuer v Berry*, 194 Iowa 243, 189 NW 717; *Ex parte Dawson* (NY) 3 Bradf 130.

In *Low Wah Suey v Backus*, 225 US 460, 56 L ed 1165, 32 S Ct 734, alien was defined as "one born out of the jurisdiction of the United States, and who has not been naturalized." To the same effect, see *Gancy v United States* (CA8 Minn) 149 F2d 788, *cert den* 326 US 767, 90 L ed 463, 66 S Ct 166, *reh den* 326 US 810, 90 L ed 495, 66 S Ct 229.

A person born in Okinawa of Okinawan parents did not become a national of the United States by virtue of the peace treaty

with Japan, and as resident of the Territory of Hawaii he was an alien. *United States v Ushi Shiroma* (DC Hawaii) 123 F Supp 145.

4. 8 USC § 1101(a)(3).

United States ex rel. Ulrich v Kellogg, 58 App DC 360, 30 F2d 984, 71 ALR 1210, *cert den* 279 US 868, 73 L ed 1005, 49 S Ct 482; *Re Bautista* (DC Cal) 245 F 765

5. *Clostermann v Schmidt*, 215 Or 55, 332 P2d 1036.

6. *Hennessy v Richardson Drug Co.* 189 US 25, 47 L ed 697, 23 S Ct 533.

7. *Lapina v Williams*, 232 US 78, 58 L ed 515, 34 S Ct 196.

An alien is still an alien notwithstanding he has a commercial domicile in the United States. *Lem Moon Sing v United States*, 158 US 538, 39 L ed 1082, 15 S Ct 967.

8. *Reynolds v Haskins* (CA8) F2d 473, 45 ALR 759 (native-born citizen returning to this country after being naturalized in a foreign country).

9. *Lynch v Clarke* (NY) 1 Sandf Ch 583, 3 NY Leg Obs 236.

The status of persons in this country as citizens or aliens is controlled entirely by the Constitution of the United States and the acts of Congress passed in pursuance thereof.¹⁰

The inhabitants of United States territories are not aliens,¹¹ since such inhabitants are nationals of the United States.¹² However, the status of such nationals may be changed to that of aliens upon the granting of complete independence to such territories.¹³ The effect of the American Revolution was to make all who continued to reside in Great Britain aliens in respect of the United States so far as subsequent rights were affected, although it had no effect on vested rights.¹⁴

The presumption is, in the absence of a contrary showing, that a person who was once a citizen of a foreign country, even though residing in another, still remains a citizen of such foreign country.¹⁵ Until a change of citizenship is proved, the status of an individual as an alien is presumed to continue.¹⁶

The term "denizen" denotes one in a middle state between an alien and a natural-born citizen, and who, though subject to some of the disabilities of the former, is entitled to many of the privileges of the latter. By the common law he might take lands by purchase or devise, which an alien could not, but he could not take by inheritance, since his parent, through whom he must claim, being an alien, had no inheritable blood, and therefore could convey none to the child.¹⁷

§ 2. Classes of aliens.

Aliens may be classified as resident and nonresident.¹⁸ They may also be classified as alien friends and alien enemies, the former being citizens or subjects of a nation with which the United States is at peace,¹⁹ the latter subjects or

10. *Mackenzie v Hare*, 165 Cal 776, 134 P 713, aff'd 239 US 299, 60 L ed 297, 36 S Ct 106.

11. A native of a territory who was an inhabitant thereof when it was ceded to the United States is not an alien within the meaning of the immigration laws. *Gonzales v Williams*, 192 US 1, 48 L ed 317, 24 S Ct 177.

Prior to the proclamation of Philippine independence, at which time § 14 of the Philippine Independence Act (48 USC § 1244) became operative, Filipinos were not excludible from the United States under any general statute relating to the exclusion of "aliens." *Rabang v Boyd*, 353 US 427, 1 L ed 2d 956, 77 S Ct 985, reh den 353 US 944, 1 L ed 2d 1542, 77 S Ct 1421.

But see *Gancy v United States* (CA8 Minn) 149 F2d 788, cert den 326 US 767, 90 L ed 463, 66 S Ct 166, reh den 326 US 810, 90 L ed 495, 66 S Ct 229, holding that a native-born Filipino residing in the United States was an alien within the meaning of the Alien Registration Act of 1940.

See also STATES, TERRITORIES, AND DEPENDENCIES (1st ed § 111).

12. *Barber v Gonzales*, 347 US 736, 98 L ed 1009, 74 S Ct 822.

13. In the Philippine Independence Act (48 USC §§ 1231 et seq.), the Congress granted

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full and complete independence to the Philippine Islands and necessarily severed the obligation of permanent allegiance owed by Filipinos who, prior to the grant of independence, were nationals of the United States. *Rabang v Boyd*, 353 US 427, 1 L ed 2d 956, 77 S Ct 985, reh den 353 US 944, 1 L ed 2d 1542, 77 S Ct 1421.

Persons born in the Philippine Islands prior to the effective date of the Independence Act, and who thereby were nationals of the United States, became aliens upon the proclamation of Philippine independence on July 4, 1946, regardless of their permanent residence in the continental United States on that date. *Rabang v Boyd*, supra.

14. *Dawson v Godfrey* (US) 4 Cranch 321, 2 L ed 634; *Kelly v Harrison*, 2 Johns Cas (NY) 29.

15. *State v Jackson*, 79 Vt 504, 65 A 657.

16. *Hamilton v Erie R. Co.* 219 NY 343, 114 NE 399, error dismd 248 US 369, 63 L ed 307, 39 S Ct 95.

17. *McClenaghan v McClenaghan*, 20 SC Eq (1 Strobb) 295.

18. *Re Gill*, 79 Iowa 296, 44 NW 553; *Luhrs v Eimer*, 80 NY 171.

19. *Johnson v Eisentrager*, 339 US 763, 94 L ed 1255, 70 S Ct 936; *Techt v Hughes*, 229

citizens of a foreign state or country at war with the United States.²⁰ A subject of a sovereign with which this country is at war who resides and conducts business here is not, however, an alien enemy within the rule that such persons cannot maintain actions in the courts of this country.¹ It is said that ordinarily the word "alien," without anything to modify or qualify it, refers to an alien friend.²

With respect to entering the United States, aliens are classified by statute as immigrants and nonimmigrants, the former seeking to enter for permanent residence with the possibility of becoming citizens, and the latter desiring to spend some time in the United States but without any idea of becoming citizens.³

II. STATUS, RIGHTS, PRIVILEGES, AND LIABILITIES OF ALIENS

A. IN GENERAL

§ 3. Generally.

The status of persons in this country as aliens is controlled by the Constitution of the United States and the acts of Congress passed in pursuance thereof.⁴ While aliens are not ordinarily entitled to any rights or privileges not accorded to a citizen, they are entitled to many of the same rights as a citizen.⁵ Indeed, by general international law, foreigners who have become domiciled in a country other than their own acquire rights, and must discharge duties, in many respects the same as those possessed by, and imposed upon, the citizens of that country; and no restriction on the footing upon which such persons stand by reason of their domicil of choice or commercial domicil is to be presumed.⁶ A foreigner residing in this country is bound to obey all the laws of the United States not immediately relating to citizenship.⁷ The implied license under which aliens enter the territory of a nation and mingle with its inhabitants for purposes of business or pleasure can never be construed to grant them an exemption from the jurisdiction of the country in which they are found.⁸

An alien, while domiciled in the country, owes a local and temporary allegiance which continues during the period of his residence. This obligation of temporary allegiance by an alien resident in a friendly country is everywhere recognized by publicists and statesmen.⁹ As a consequence of the temporary allegiance required of them, aliens are likewise entitled to the protection of the laws for so long as they are permitted to reside in the country.¹⁰

NY 222, 128 NE 185, 11 ALR 166, cert den 254 US 643, 65 L ed 454, 41 S Ct 14.

20. § 172, *infra*.

1. §§ 194 et seq., *infra*.

2. State ex rel. Brewster v Covell, 103 Kan 754, 175 P 989.

3. 8 USC §§ 1101(a)(15), 1181, 1184.

4. § 1, *supra*.

5. Carlisle v Landon, 342 US 524, 96 L ed 547, 72 S Ct 525, reh den 343 US 988, 96 L ed 1375, 72 S Ct 1069; Johnson v Eisentrager, 339 US 763, 94 L ed 1255, 70 S Ct 936; Anton v Van Winkle (DC Or) 297 F 340; Pocahontas Collieries Co. v Rukas, 104 Va 278, 51 SE 449.

6. Lau Ow Bew v United States, 144 US 850

47, 36 L ed 340, 12 S Ct 517; The Pizarro (US) 2 Wheat 227, 4 L ed 226.

See also INTERNATIONAL LAW (Rev ed §§ 32, 33).

7. Radich v Hutchins, 95 US 210, 24 L ed 409.

8. United States v Wong Kim Ark, 169 US 649, 42 L ed 890, 18 S Ct 456.

9. Carlisle v United States (US) 16 Wall 147, 21 L ed 426.

10. Carlisle v United States, 16 Wall (US) 147, 21 L ed 426.

While aliens are permitted by the nation to retain a residence and domicil, they are subject to its laws, and may invoke its protection against other nations. Fong Yue Ting v United States, 149 US 698, 37 L ed 905,



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All federal laws of a general and permanent nature arranged in accordance with the section numbering of the United States Code and the supplements thereto.

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Titles 1 through 9 are based on Supplement II of the 2000 edition (January 6, 2003) of the Code. Titles 10 through 50 Appendix, Tables I-VII and the Table of Popular Names are based on Supplement I of the 2000 edition (January 22, 2002) of the Code. The Organic Laws are based on the 2000 edition (January 2, 2001) of the Code. Each section of the Code database contains a date in the top-right corner indicating that laws enacted as of that date and affecting that section are included in the text of that section. When a search is made for a specific section of the Code, as opposed to a search for certain words appearing in the Code, the hit list will include an "Update" item listing any amendments not already reflected in the text of that section.

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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 cycle 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:

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 increase in revenues of \$4.5 billion, which equates to the three-year personal income taxes of 676,000 median income American families who are thus subsidizing a discrete group in one part of the country.

The Civil Service and Military Retirement Systems provide to participants three times and six times the benefits, respectively, of the best private sector plans. The Government's civilian and military employees retire at an earlier age, typically age 55 and 40, respectively, versus 63 to 64 in the private sector, with substantially more liberal benefit formulas than their private sector counterparts. In addition, the pensions of Federal retirees are fully indexed for inflation-a rarity in the private sector. Modifying major Federal pensions to provide benefits comparable to those of the best private sector plans, slightly better in the case of military pensions, would result in three-year savings of \$60.9 billion, equivalent to the three-year income taxes of 9.2 million median income families.

A relatively small item in the overall, but representative of many, is the prohibition of competitive bidding on the movement of military personnel household goods to and from Alaska and Hawaii, despite a DOD test showing that competitive bidding would reduce costs by as much as 26 percent. Elimination of this provision would save \$69.5 million in three years, equivalent to the three-year income taxes of 10,400 median income families.

GAO

Testimony

Before the Committee on Governmental Affairs
United States Senate

For Release on Delivery
Expected at
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Wednesday,
August 4, 1993

FINANCIAL
MANAGEMENT

First Financial Audits of IRS
and Customs Revealed Serious
Problems

Statement of Charles A. Bowsler
Comptroller General of the United States



both IRS and Customs management have been very responsive to our audit findings and have made progress toward developing reliable information and establishing financial control.

Nevertheless, we were unable to express an opinion on the reliability of IRS' and Customs' fiscal year 1992 financial statements because critical supporting information for billions of dollars was either not available or was unreliable. Preparation of financial statements presented a substantial challenge to IRS and Customs. This undertaking was made especially difficult because their existing systems were not designed to provide meaningful and reliable financial information needed to effectively manage and report on their operations. Compounding this problem, internal controls were not designed and implemented to effectively safeguard assets, provide a reasonable basis for determining material compliance with certain laws and regulations, and assure that there were no material misstatements in the financial statements.

IRS and Customs have begun the process of rebuilding their financial management processes and systems. Continued strong implementation of the CFO Act by these agencies can result in a tremendous payoff through an improved ability to safeguard assets, manage operations, and collect revenues. But the job will not be easy. Using audited financial statements as an important foundation to improve financial management, IRS and Customs will have to overcome the broad range of very serious problems that our financial audits have identified. This will require sustained, high priority management attention and congressional support.

I will now highlight the results of our IRS and Customs audits.

SERIOUS WEAKNESSES EXIST IN IRS' FINANCIAL MANAGEMENT OPERATIONS AND CONTROLS, AND MANAGEMENT IS ACTING TO ADDRESS THESE PROBLEMS

First, I would like to discuss some of the more severe problems we identified in our audit of IRS' financial statements.²

IRS Significantly Overstated Its Accounts Receivable

After performing a detailed analysis of IRS' receivables as of June 30, 1991, we estimated that only \$65 billion of about \$105 billion in gross reported receivables that we reviewed were valid and that only \$19 billion of the valid receivables were collectible. At the time, IRS had reported that \$66 billion of the \$105 billion was collectible.

Historically, IRS reports have significantly overstated its receivables primarily because IRS included duplicate and

²Financial Audit: Examination of IRS' Fiscal Year 1992 Financial Statements (GAO/AIMD-93-2, June 30, 1993).

insufficiently supported assessments that it had recorded as part of efforts to identify and collect taxes due. While IRS may have a need to maintain such records for enforcement purposes, these and many erroneous assessments were not valid receivables for financial reporting purposes and should not have been included in the reported balances. In addition, IRS' estimates of the collectibility of its receivables have been unreliable because, in addition to including invalid receivables, IRS relied solely on collection experience and did not group assessments according to their collection risk or consider the taxpayer's current ability to pay. This unreliable information on IRS' accounts receivable has affected decisions about the (1) impact of increased collections on the deficit, (2) evaluation of enforcement and collection performance, (3) determination of staffing levels, and (4) allocation of resources.

Based upon the methods that we recommended in our May 1993 report,³ IRS developed and reported an estimate of \$22 billion for collectible receivables as of September 30, 1992. Ultimately, though, systems must be developed to keep an accurate running record of IRS' receivables.

Important Revenue Information Is Unavailable or Unreliable

We were able to determine that IRS' total reported revenues of about \$1.1 trillion were actually collected and deposited into Treasury accounts.⁴ Although we were able to audit total revenue collections, we were not able to audit the components of revenue because IRS' systems could not provide the detailed transactions supporting the revenue balance, which is a serious limitation. IRS' systems also did not maintain and, thus, could not report the amounts of specific excise and social security taxes collected.

As a result, IRS could not provide Treasury the information needed to distribute excise taxes among the general revenue fund and the various excise tax trust funds based on collections, as required by law. Instead, IRS reported to Treasury the amounts of excise taxes assessed, and Treasury distributed revenue based on these amounts. Since total assessments exceed total collections, this practice, in effect, results in subsidies to the excise tax trust funds from general tax revenues. Over the past several years, such subsidies may have totaled several billion dollars. Also, the reported

³Financial Audit: IRS Significantly Overstated Its Accounts Receivable Balance (GAO/AFMD-93-42, May 6, 1993).

⁴Our financial audit for fiscal year 1992 was not designed to address IRS' information on (1) the impact of tax policies on revenue, often referred to as "tax expenditures," and the process used by IRS to determine this information or (2) potential tax revenues, often referred to as the "tax gap."

information gives the impression to decisionmakers that the excise taxes are generating more revenue than they actually do.

Similarly, IRS cannot determine the general revenue fund's subsidy to the social security trust fund. This subsidy occurs because, amounts distributed, which are by law to be based on wages earned, generally exceed social security taxes collected. However, IRS cannot precisely determine the subsidy amount because it does not account for the specific amounts of social security taxes collected. As a result, IRS cannot provide information on the subsidy to congressional committees and others who may be interested in monitoring the financial condition of the social security program.⁵

We identified additional fundamental deficiencies in IRS' analysis and summarization of its revenue-related records and in controls over the reliability of this information. Some examples follow.

- IRS' reports did not include transactions that were in process at the end of reporting periods because IRS did not analyze such transactions to determine which needed to be reported. As of September 30, 1992, in-process transactions, which could have affected IRS' reported accounts receivable, refunds payable, and other noncash accounts, exceeded \$150 billion.
- IRS' current paper-based Federal Tax Deposit System for collecting payment data from businesses allowed numerous errors, primarily because the payment data and the related tax data were collected separately. Resolving such errors was both time-consuming and costly to IRS and taxpayers.⁶

To address problems in revenue accounting, IRS is expanding the role of the CFO and is either studying, planning, or implementing various improvements to its systems and processes. Many of these improvement efforts, however, have not yet been defined or are not expected to be complete until well past the year 2000 because they are part of IRS' long-term tax systems modernization effort.

⁵In our report entitled Social Security: Reconciliation Improved SSA Earnings Records, But Efforts Were Incomplete (GAO/HRD-92-81, September 1, 1992), we suggested that the Congress consider amending the Social Security Act to require that revenues credited to the social security trust funds be based on social security taxes collected.

⁶Federal Tax Deposit System: IRS Can Improve the Federal Tax Deposit System (GAO/AFMD-93-40, April 28, 1993).

EO 9397

FDR on Social Security

Federal Register, Vol 8 Number 237, November 30, 1943

Executive Order 9397

Numbering System for Federal Accounts Relating to Individual Persons

WHEREAS certain Federal agencies from time to time require in the administration of their activities a system of numerical identification of accounts of individual persons; and

WHEREAS some seventy million persons have heretofore been assigned account numbers pursuant to the Social Security Act; and

WHEREAS a large percentage of Federal employees have already been assigned account numbers pursuant to the Social Security Act; and

WHEREAS it is desirable in the interest of economy and orderly administration that the Federal Government move towards the use of a single unduplicated numerical identification system of accounts and avoid the unnecessary establishment of additional systems:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

1. Hereafter any Federal department establishment, or agency shall, whenever the head thereof finds it advisable to establish a new system of permanent account numbers pertaining to individual persons, utilize exclusively the Social Security Act account numbers assigned pursuant to Title 26, section 402.502 of the 1940 Supplement to the Code of Federal Regulations and pursuant to paragraph 2 of this order.
2. The Social Security Board shall provide for the assignment of an account number to each person who is required by any Federal agency to have such a number but who has not previously been assigned such number by the Board. The Board may accomplish this purpose by
 - (a) assigning such numbers to individual persons,
 - (b) assigning blocks of numbers to Federal agencies for reassignment to individual persons, or
 - (c) making such other arrangements for the assignment of numbers as it may deem appropriate.
3. The Social Security Board shall furnish, upon request of any Federal agency utilizing the numerical identification system of accounts provided for in this order, the account number pertaining to any person with whom such agency has an account or the name and other identifying data pertaining to any account number of any such person.

4. The Social Security Board and each Federal agency shall maintain the confidential character of information relating to individual persons obtained pursuant to the provisions of this order.
5. There shall be transferred to the Social Security Board, from time to time, such amounts as the Director of the Bureau of the Budget shall determine to be required for reimbursement by any Federal agency for the services rendered by the Board pursuant to the provisions of this order.
6. This order shall be published in the Federal Register.

Franklin D Roosevelt

The White House

November 22, 1943

[F.R. Doc. 43-19051; Filed, November 27, 1943; 2:45 p.m.]

or the District of Columbia, and a foreign country.

* * * * *

(c) The words *citizen of the United States* include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (U.S.C., title 46, sec. 802), and with respect to a corporation under title VI of this Act, all directors of the corporation are citizens of the United States, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum.

* * * * *

(e) The terms *United States Maritime Commission* and *Commission* shall mean the Secretary of Commerce, the Maritime Administrator, or the * * * [Maritime Subsidy Board] as the context may require * * *.

[Sec. 905 (a), (c), and (e) (49 Stat. 2016), amended by sec. 39 (a) and (b), Act of June 23, 1938 (Pub. L. 705, 75th Cong., 52 Stat. 964); Act of July 17, 1952 (Pub. L. 586, 82d Cong., 66 Stat. 765); sec. 4, Act of Sept. 21, 1959 (Pub. L. 86-327, 73 Stat. 597)]

SEC. 2. [Shipping Act, 1916.] (a) That within the meaning of this Act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president or other chief executive officer and the chairman of its board of directors are citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, di-

rectly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(d) The provisions of this Act shall apply to receivers and trustees of all persons to whom the Act applies, and to the successors or assignees of such persons.

[Sec. 2 (39 Stat. 729) as amended by Act of July 15, 1918 (Pub. L. 198, 65th Cong., 40 Stat. 900); sec. 38, Merchant Marine Act, 1920 (41 Stat. 1008); sec. 3, Act of Sept. 21, 1959 (Pub. L. 86-327, 73 Stat. 597)]

§2.1-1 Definitions.

(a) As used in the regulations in this part, except as otherwise expressly provided—

(1) *Act* means the Merchant Marine Act, 1936, as amended (46 U.S.C. 27).

(2) *Section* means one of the sections of the regulations in this part.

(3) *Administration* means the Maritime Administration of the Department of Commerce as created by Reorganization Plan No. 21 of 1950 (46 U.S.C. 1111 note).

(4) *Citizen* means a person who, if an individual, was born or naturalized as a citizen of the United States or, if other than an individual, meets the requirements of section 905(c) of the Act and section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802).

(5) *Taxpayer* means a citizen who has established or seeks to establish a construction reserve fund under the provisions of section 511 of the Act and the regulations in this part, and may include a partnership.

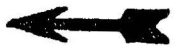
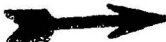


Exhibit _____

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 79 - DEFINITIONS

Sec. 7701. – Definitions.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -

 (1) **Person.** The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) **Partnership and partner.** The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) **Corporation.** The term "corporation" includes associations, joint-stock companies, and insurance companies.

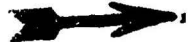
(4) **Domestic.** The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

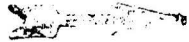
(5) **Foreign.** The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) **Fiduciary.** The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) **Stock.** The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) **Shareholder.** The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

 (9) **United States.** The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

 (10) **State.** The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

 (11) **Secretary of the Treasury and Secretary.**

(A) **Secretary of the Treasury.** The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) **Secretary.** The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) **Delegate.**

(A) In general. The term "or his delegate" -

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

(20) Employee. For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

(21) Levy. The term "levy" includes the power of distraint and seizure by any means.

(22) Attorney General. The term "Attorney General" means the Attorney General of the United States.

(23) Taxable year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year. The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued. The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business. The term "trade or business" includes the performance of the functions of a public office.

(27) Tax Court. The term "Tax Court" means the United States Tax Court.

(28) Other terms. Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code. The term "Internal Revenue Code of 1986" means this title, and the term "Internal Revenue Code of 1939" means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person. The term "United States person" means -

- (A) a citizen or resident of the United States,
- (B) a domestic partnership,
- (C) a domestic corporation,
- (D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and
- (E) any trust if -

Parallel authorities for 26 USC 7701 (from CFR)

- 26 CFR part 1
- 26 CFR part 31
- 26 CFR part 301

[Code of Federal Regulations]
 [Title 27, Volume 1]
 [Revised as of April 1, 2003]
 From the U.S. Government Printing Office via GPO Access
 [CITE: 27CFR26.11]

[Page 664-667]

TITLE 27--ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

CHAPTER I--ALCOHOL AND TOBACCO TAX AND TRADE BUREAU, DEPARTMENT OF THE
 TREASURY

PART 26--LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS--Table of Contents

Subpart B--Definitions

Sec. 26.11 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 importing 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.

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.29, Delegation Order--Delegation of the Director's Authorities in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the Virgin Islands.

[[Page 665]]

Article. Any preparation unfit for beverage use, made with or containing:

- (1) Wine or beer;
- (2) Distilled spirits or industrial spirits; or
- (3) Denatured spirits when such preparation is not manufactured

under the provisions of this chapter.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed, or produced from malt, wholly or in part, or from any substitute therefor.

Bottler. Any person required to hold a basic permit as a bottler under 27 U.S.C. 203(b)(1).

Bulk container. Any container having a capacity of more than 1 gallon.

Bulk distilled spirits. The term "bulk distilled spirits" means distilled spirits in a container having a capacity in excess of 1 gallon.

Bureau of Alcoholic Beverage Taxes. Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

Commercial bank. A bank, whether or not a member of the Federal

Exhibit

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.

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.

Denatured spirits. Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this chapter relating to the establishment and operation of plants qualified to denature spirits in the United States or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

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

Director of the service center. A director of an internal revenue service center.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Effective tax rate. The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 7652 is paid or determined.

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor'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.

[[Page 666]]

Eligible article. Any medicine, medicinal preparation, food product, flavor, flavoring extract or perfume which contains distilled spirits, is unfit for beverage purposes, and has been or will be brought into the United States from Puerto Rico or the Virgin Islands under the provisions of 26 U.S.C. 7652(g).

Eligible flavor. A flavor which:

- (1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,
- (2) Was not manufactured on the premises of a distilled spirits plant, and
- (3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

Eligible wine. Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document, or where

Exhibit

of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ----- (insert type of document, such as statement, report, certificate, application, claim, or other document), 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."

Fiscal year. The period which begins October 1 and ends on the following September 30.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Importer. Any person who imports distilled spirits, wines, or beer into the United States.

Industrial spirits. As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this chapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate ATF officer to adequately protect the revenue.

Liquors. Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

Permit. A formal written authorization of the Secretary of the Treasury of Puerto Rico.

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

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as 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).

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

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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.

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 Sec. 26.201a.

Wine. Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored

Exhibit

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 Sec. 26.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart C [Reserved]

Exhibit

*Divided
BATE from
Title 26*

*These things
were never
put into
Title 27
as directed*

BY ORDER OF THE SECRETARY OF THE TREASURY

TREASURY ORDER: 120-01

DATE: June 6, 1972

SUNSET REVIEW: TBD

SUBJECT: Establishment of the Bureau of Alcohol, Tobacco and Firearms

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, it is ordered that:

1. The purpose of this Order is to transfer, as specified herein, the functions, powers and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service) to the Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Alcohol, Tobacco and Firearms (hereinafter referred to as the Director). The Director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).
2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary in the administration and enforcement of the following provisions of law:
 - a. Chapters 51, 52, and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;
 - b. Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to activities administered and enforced with respect to chapters 51, 52, and 53;
 - c. The Federal Alcohol Administration Act (27 U.S.C. Chapter 8);
 - d. 18 U.S.C. Chapter 44 (relating to firearms);
 - e. Title VII, Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix, sections 1201-1203);
 - f. 18 U.S.C. 1262-1265; 1952; 3615 (relating to liquor traffic);
 - g. Act of August 9, 1939 (49 U.S.C. Chapter 11); insofar as it involves matters relating to violations of the National Firearms Act;
 - h. 18 U.S.C. Chapter 40 (relating to explosives); and
 - i. Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934) relating to the control of the importation of arms, ammunition and implements of war.

All functions, powers and duties of the Secretary which relate to the administration and enforcement of

the laws specified in paragraph 2 hereof are delegated to the Director. Regulations for the purposes of carrying out the functions, powers and duties delegated to the Director may be issued by him with the approval of the Secretary.


All regulations prescribed, all rules and instructions issued, and all forms adopted for the administration and enforcement of the laws specified in paragraph 2 hereof, which are in effect or in use on the effective date of this Order, shall continue in effect as regulations, rules, instructions and forms of the Bureau until superseded or revised.

All existing activities relating to the collection, processing, depositing, or accounting for taxes (including penalties and interest), fees, or other moneys under the laws specified in paragraph 2 hereof, shall continue to be performed by the Commissioner of Internal Revenue to the extent not now performed by the Alcohol, Tobacco and Firearms Division or the Assistant Regional Commissioners (Alcohol, Tobacco and Firearms), until the Director shall otherwise provide with the approval of the Secretary.

All existing activities relating to the laws specified in paragraph 2 hereof which are now performed by the Bureau of Customs, shall continue to be performed by such Bureau until the Director shall otherwise provide with the approval of the Secretary.

The terms "Director, Alcohol, Tobacco and Firearms Division" and "Commissioner of Internal Revenue" wherever used in regulations, rules, and instructions, and forms, issued or adopted for the administration and enforcement of the laws specified in paragraph 2 hereof, which are in effect or in use on the effective date of this Order, shall be held to mean the Director.

The terms "Assistant Regional Commissioner" wherever used in such regulations, rules, instructions, and forms, shall be held to mean Regional Director.



The terms "internal revenue officer" and "officer, employee or agent of the internal revenue" wherever used in such regulations, rules, instructions and forms, in any law specified in paragraph 2. above, and in 18 U.S.C. 1114, shall include all officers and employees of the United States engaged in the administration and enforcement of the laws administered by the Bureau, who are appointed or employed by, or pursuant to the authority of, or who are subject to the directions, instructions or orders of, the Secretary.

The above terms, when used in regulations, rules, instructions and forms of government agencies other than the Internal Revenue Service, which relate to the administration and enforcement of the laws specified in paragraph 2 hereof, shall be held to have the same meaning as if used in regulations, rules, instructions and forms of the Bureau.

There shall be transferred to the Bureau all positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds of the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service, including those of the Assistant Regional Commissioners (Alcohol, Tobacco and Firearms), Internal Revenue Service.

In addition, there shall be transferred to the Bureau such other positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds, as are determined by the Assistant Secretary for Administration, in consultation with the Assistant Secretary, the Director, and the Commissioner of Internal Revenue, to be necessary or appropriate to be transferred to carry out the purposes of this Order.

There shall be transferred to the Chief Counsel of the Bureau such functions, powers and duties, positions, personnel, records, property, and unexpended balances of appropriations, allocations, and funds, of the Chief Counsel of the Internal Revenue Service as the General Counsel of the Department shall direct.

All delegations inconsistent with this Order are revoked.

This Order shall become effective July 1, 1972.

Charles E. Walker

Acting Secretary of the Treasury

Occupational Outlook Handbook, 2002-03 Edition



U.S. Department of Labor
 Bureau of Labor Statistics
 Accessibility Information
 Occupational Outlook Handbook
 2002-03 Edition
 OCCUPATIONS

Occupational Outlook Handbook
 OOH Home | Tomorrow's Jobs | Other OOH Info | Order
 Index: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

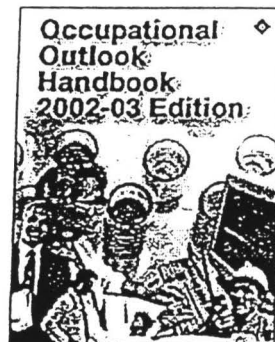
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Occupational Outlook Handbook, 2002-03 Edition

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- To find out about a *specific* occupation, enter its name in the "Search by occupation" box at the **top right** of this page and hit "GO". [Search tips](#).
- To find out about *multiple* occupations, browse through listings using the occupational cluster buttons to the **left**.
- For a listing of *all* occupations in alphabetical order, click on one of the letters at the top of the page.



The *Occupational Outlook Handbook* is a nationally recognized source of career information, designed to provide valuable assistance to individuals making decisions about their future work lives. Revised every two years, the *Handbook* describes what workers do on the job, working conditions, the training and education needed, earnings, and expected job prospects in a wide range of occupations.

Printing of information about individual occupations is best done using the PDF files that are provided. The PDF files on this site are best viewed and printed with Adobe Acrobat Reader 4.0 or higher. [How to use PDF files](#).

- Management
- Professional and Related
- Service
- Sales
- Administrative Support
- Farming and Related
- Construction
- Installation and Related
- Production
- Transportation
- Job Opportunities in the Armed Forces
- Career Guide to Industries
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[Send us your question](#) about the *Occupational Outlook Handbook*
 Other Employment Projections questions: EP.Info@bls.gov
 Technical (web) questions: webmaster@bls.gov
 Other comments: feedback@bls.gov

URL: <http://www.bls.gov/oco/home.htm>

Exhibit _____

Related Occupations

Like firefighters, emergency medical technicians and paramedics and police and detectives respond to emergencies and save lives.

Sources of Additional Information

Information about a career as a firefighter may be obtained from local fire departments and from:

- International Association of Firefighters, 1750 New York Ave. NW., Washington, DC 20006. Internet: <http://www.iaff.org/iaff/index.html>
- U.S. Fire Administration, 16825 South Seton Ave., Emmitsburg, MD 21727.

Information about firefighter professional qualifications and a list of colleges and universities offering 2- or 4-year degree programs in fire science or fire prevention may be obtained from:

- National Fire Academy, Degrees at a Distance Program, 16825 South Seton Ave., Emmitsburg, MD 21727. Internet: <http://www.usfa.fema.gov/nfa/index.htm>

Police and Detectives

(O*NET 33-1012.00, 33-3021.01, 33-3021.02, 33-3021.03, 33-3021.04, 33-3021.05, 33-3031.00, 33-3051.01, 33-3051.02, 33-3051.03, 33-3052.00)

Significant Points

- Police work can be dangerous and stressful.
- The number of qualified candidates exceeds the number of job openings in Federal and State law enforcement agencies but is inadequate to meet growth and replacement needs in many local and special police departments.
- The largest number of employment opportunities will arise in urban communities with relatively low salaries and high crime rates.

Nature of the Work

People depend on police officers and detectives to protect their lives and property. Law enforcement officers, some of whom are State or Federal special agents or inspectors, perform these duties in a variety of ways, depending on the size and type of their organization. In most jurisdictions, they are expected to exercise authority when necessary, whether on or off duty. According to the U.S. Bureau of Justice Statistics, about 65 percent of State and local law enforcement officers are uniformed personnel.

Uniformed police officers who work in municipal police departments of various sizes, small communities, and rural areas have general law enforcement duties including maintaining regular patrols and responding to calls for service. They may direct traffic at the scene of a fire, investigate a burglary, or give first aid to an accident victim. In large police departments, officers usually are assigned to a specific type of duty. Many urban police agencies are becoming more involved in community policing—a practice in which an officer builds relationships with the citizens of local neighborhoods and mobilizes the public to help fight crime.

Police agencies are usually organized into geographic districts, with uniformed officers assigned to patrol a specific area, such as part of the business district or outlying residential neighborhoods. Officers may work alone, but in large agencies they often patrol with a partner. While on patrol, officers attempt to become thoroughly familiar with their patrol area and remain alert for anything unusual. Suspicious circumstances and hazards to public safety are investigated or noted, and officers are dispatched to individual calls

for assistance within their district. During their shift, they may identify, pursue, and arrest suspected criminals, resolve problems within the community, and enforce traffic laws.

Public college and university police forces, public school district police, and agencies serving transportation systems and facilities are examples of special police agencies. There are more than 1,300 of these agencies with special geographic jurisdictions or enforcement responsibilities in the United States. More than 75 percent of the sworn personnel in special agencies are uniformed officers, and about 15 percent are investigators.

Some police officers specialize in such diverse fields as chemical and microscopic analysis, training and firearms instruction, or handwriting and fingerprint identification. Others work with special units such as horseback, bicycle, motorcycle or harbor patrol, canine corps, or special weapons and tactics (SWAT) or emergency response teams. About 10 percent of local and special law enforcement officers perform jail-related duties, and around 4 percent work in courts. Regardless of job duties or location, police officers and detectives at all levels must write reports and maintain meticulous records that will be needed if they testify in court.

Sheriffs and deputy sheriffs enforce the law on the county level. Sheriffs are usually elected to their posts and perform duties similar to those of a local or county police chief. Sheriffs' departments tend to be relatively small, most having fewer than 25 sworn officers. A deputy sheriff in a large agency will have law enforcement duties similar to those of officers in urban police departments. Nationwide, about 40 percent of full-time sworn deputies are uniformed officers assigned to patrol and respond to calls, 12 percent are investigators, 30 percent are assigned to jail-related duties, and 11 percent perform court-related duties, with the balance in administration. Police and sheriffs' deputies who provide security in city and county courts are sometimes called bailiffs. (For information on other officers who work in jails and prisons see correctional officers elsewhere in the *Handbook*.)

State police officers (sometimes called *State troopers* or *highway patrol officers*) arrest criminals Statewide and patrol highways to enforce motor vehicle laws and regulations. Uniformed officers are best known for issuing traffic citations to motorists who violate the law. At the scene of accidents, they may direct traffic, give first aid, and call for emergency equipment. They also write reports used to determine the cause of the accident. State police officers are frequently called upon to render assistance to other law enforcement agencies, especially those in rural areas or small towns.

State law enforcement agencies operate in every State except Hawaii. Seventy percent of the full-time sworn personnel in the 49 State police agencies are uniformed officers who regularly patrol and respond to calls for service. Fifteen percent are investigators; 2 percent are assigned to court-related duties; and the remaining 13 percent work in administrative or other assignments.

Detectives are plainclothes investigators who gather facts and collect evidence for criminal cases. Some are assigned to inter-agency task forces to combat specific types of crime. They conduct interviews, examine records, observe the activities of suspects, and participate in raids or arrests. Detectives and State and Federal agents and inspectors usually specialize in one of a wide variety of violations such as homicide or fraud. They are assigned cases on a rotating basis and work on them until an arrest and conviction occurs or the case is dropped.

The Federal Government maintains a high profile in many areas of law enforcement. The U.S. Department of Justice is the largest employer of sworn Federal officers. *Federal Bureau of Investigation (FBI) agents* are the Government's principal investigators, responsible for investigating violations of more than 260 statutes and conducting sensitive national security investigations.

Agents may conduct surveillance, monitor court-authorized wiretaps, examine business records, investigate white-collar crime, track the interstate movement of stolen property, collect evidence of espionage activities, or participate in sensitive undercover assignments. The FBI investigates organized crime, public corruption, financial crime, fraud against the government, bribery, copyright infringement, civil rights violations, bank robbery, extortion, kidnapping, air piracy, terrorism, espionage, interstate criminal activity, drug trafficking, and other violations of Federal statutes.

U.S. Drug Enforcement Administration (DEA) agents enforce laws and regulations relating to illegal drugs. Not only is the DEA the lead agency for domestic enforcement of Federal drug laws, it also has sole responsibility for coordinating and pursuing U.S. drug investigations abroad. Agents may conduct complex criminal investigations, carry out surveillance of criminals, and infiltrate illicit drug organizations using undercover techniques.

U.S. marshals and deputy marshals protect the Federal courts and ensure the effective operation of the judicial system. They provide protection for the Federal judiciary, transport Federal prisoners, protect Federal witnesses, and manage assets seized from criminal enterprises. They enjoy the widest jurisdiction of any Federal law enforcement agency and are involved to some degree in nearly all Federal law enforcement efforts. In addition, U.S. marshals pursue and arrest Federal fugitives.

U.S. Immigration and Naturalization Service (INS) agents and inspectors facilitate the entry of legal visitors and immigrants to the United States and detain and deport those arriving illegally. They consist of border patrol agents, immigration inspectors, criminal investigators and immigration agents, and detention and deportation officers. Nearly half of sworn INS officers are border patrol agents. *U.S. Border Patrol agents* protect more than 8,000 miles of international land and water boundaries. Their missions are to detect and prevent the smuggling and unlawful entry of undocumented foreign nationals into the United States, apprehend those persons found in violation of the immigration laws, and interdict contraband, such as narcotics. *Immigration inspectors* interview and examine people seeking entrance to the United States and its territories. They inspect passports to determine whether people are legally eligible to enter the United States. Immigration inspectors also prepare reports, maintain records, and process applications and petitions for immigration or temporary residence in the United States.

Special agents and inspectors employed by the U.S. Department of the Treasury work for the Bureau of Alcohol, Tobacco, and Firearms; the Customs Service; and the Secret Service. *Bureau of Alcohol, Tobacco, and Firearms (ATF) agents* regulate and investigate violations of Federal firearms and explosives laws, as well as Federal alcohol and tobacco tax regulations. *Customs agents* investigate violations of narcotics smuggling, money laundering, child pornography, customs fraud, and enforcement of the Arms Export Control Act. Domestic and foreign investigations involve the development and use of informants, physical and electronic surveillance, and examination of records from importers/exporters, banks, couriers, and manufacturers. They conduct interviews, serve on joint task forces with other agencies, and get and execute search warrants.

Customs inspectors inspect cargo, baggage, and articles worn or carried by people and carriers including vessels, vehicles, trains and aircraft entering or leaving the United States to enforce laws governing imports and exports. These inspectors examine, count, weigh, gauge, measure, and sample commercial and noncommercial cargoes entering and leaving the United States. Customs inspectors seize prohibited or smuggled articles, intercept contraband, and apprehend, search, detain, and arrest violators of U.S. laws. *U.S. Secret Service special agents* protect the President, Vice President,



Police and detectives collect evidence at crime scenes.

and their immediate families; Presidential candidates; former Presidents; and foreign dignitaries visiting the United States. Secret Service agents also investigate counterfeiting, forgery of Government checks or bonds, and fraudulent use of credit cards.

The U.S. Department of State *Bureau of Diplomatic Security special agents* are engaged in the battle against terrorism. Overseas, they advise ambassadors on all security matters and manage a complex range of security programs designed to protect personnel, facilities, and information. In the United States, they investigate passport and visa fraud, conduct personnel security investigations, issue security clearances, and protect the Secretary of State and a number of foreign dignitaries. They also train foreign civilian police and administer a counter-terrorism program.

Other Federal agencies employ police and special agents with sworn arrest powers and the authority to carry firearms. These agencies include the U.S. Postal Service, the Bureau of Indian Affairs, the Office of Law Enforcement under the U.S. Department of the Interior, the U.S. Forest Service under the U.S. Department of Agriculture, the National Park Service under the U.S. Department of the Interior, and Federal Air Marshals under the U.S. Department of Transportation. Other police agencies have evolved from the military for security for the agency's property and personnel. The largest such agency is the General Services Administration's Federal Protective Service, which provides security for Federal workers, buildings, and property.

Working Conditions

Police work can be very dangerous and stressful. In addition to the obvious dangers of confrontations with criminals, officers need to be constantly alert and ready to deal appropriately with a number of other threatening situations. Many law enforcement officers witness death and suffering resulting from accidents and criminal behavior. A career in law enforcement may take a toll on officers' private lives.

Uniformed officers, detectives, agents, and inspectors are usually scheduled to work 40-hour weeks, but paid overtime is common. Shiftwork is necessary because protection must be provided around the clock. Junior officers frequently work weekends, holidays, and nights. Police officers and detectives are required to work at any time their services are needed and may work long hours during investigations. In most jurisdictions, whether on or off duty, officers are expected to be armed and to exercise their arrest authority whenever necessary.

The jobs of some Federal agents such as U.S. Secret Service and DEA special agents require extensive travel, often on very short notice. They may relocate a number of times over the course of their careers. Some special agents in agencies such as the U.S. Border Patrol work outdoors in rugged terrain for long periods and in all kinds of weather.

Employment

Police and detectives held about 834,000 jobs in 2000. About 80 percent were employed by local governments. State police agencies employed about 13 percent and various Federal agencies employed about 6 percent. A small proportion worked for schools, railroads, transit agencies, or private detective, guard, and armored car services.

According to the U.S. Bureau of Justice Statistics, police and detectives employed by local governments primarily worked in cities with more than 25,000 inhabitants. Some cities have very large police forces, while thousands of small communities employ fewer than 25 officers each. Forty-six local, special, and State agencies employed 1,000 or more full-time sworn officers, while approximately 7,000 departments employed fewer than 10 each.

Training, Other Qualifications, and Advancement

Civil service regulations govern the appointment of police and detectives in practically all States, large municipalities, and special police agencies, as well as in many smaller ones. Candidates must be U.S. citizens, usually at least 20 years of age, and must meet rigorous physical and personal qualifications. In the Federal Government, candidates must be at least 21 years of age but less than 37 years of age at the time of appointment. Physical examinations for entrance into law enforcement often include tests of vision, hearing, strength, and agility. Eligibility for appointment usually depends on performance in competitive written examinations and previous education and experience. In larger departments, where the majority of law enforcement jobs are found, applicants usually must have at least a high school education. Federal and State agencies typically require a college degree. Candidates should enjoy working with people and meeting the public.

Because personal characteristics such as honesty, sound judgment, integrity, and a sense of responsibility are especially important in law enforcement, candidates are interviewed by senior officers, and their character traits and backgrounds are investigated. In some agencies, candidates are interviewed by a psychiatrist or a psychologist, or given a personality test. Most applicants are subjected to lie detector examinations or drug testing. Some agencies subject sworn personnel to random drug testing as a condition of continuing employment.

Before their first assignments, officers usually go through a period of training. In State and large local departments, recruits get training in their agency's police academy, often for 12 to 14 weeks. In small agencies, recruits often attend a regional or State academy. Training includes classroom instruction in constitutional law and civil rights, State laws and local ordinances, and accident investigation. Recruits also receive training and supervised experience in patrol, traffic control, use of firearms, self-defense, first aid, and emergency response. Police departments in some large cities hire high school graduates who are still in their teens as police cadets or trainees. They do clerical work and attend classes, usually for 1 to 2 years, at which point they reach the minimum age requirement and may be appointed to the regular force.

Police officers usually become eligible for promotion after a probationary period ranging from 6 months to 3 years. In a large department, promotion may enable an officer to become a detective or specialize in one type of police work, such as working with juveniles. Promotions to corporal, sergeant, lieutenant, and captain usually are made according to a candidate's position on a promotion list, as determined by scores on a written examination and on-the-job performance.

The FBI has the largest number of special agents. To be considered for appointment as an FBI agent, an applicant either must be a graduate of an accredited law school or a college graduate with a major in accounting, fluency in a foreign language, or 3 years of related full-time work experience. All new agents undergo 16 weeks of training at the FBI academy on the U.S. Marine Corps base in Quantico, Virginia.

Applicants for special agent jobs with the U.S. Department of Treasury's Secret Service and the Bureau of Alcohol, Tobacco, and Firearms must have a bachelor's degree or a minimum of 3 years' related work experience. Prospective special agents undergo 10 weeks of initial criminal investigation training at the Federal Law Enforcement Training Center in Glynco, Georgia, and another 17 weeks of specialized training with their particular agencies.

Applicants for special agent jobs with the U.S. Drug Enforcement Administration (DEA) must have a college degree and either 1 year of experience conducting criminal investigations, 1 year of graduate school, or have achieved at least a 2.95 grade point average while in college. DEA special agents undergo 14 weeks of specialized training at the FBI Academy in Quantico, Virginia.

U.S. Border Patrol agents must be U.S. citizens, younger than 37 years of age at the time of appointment, possess a valid driver's license, and pass a three-part examination on reasoning and language skills. A bachelor's degree or previous work experience that demonstrates the ability to handle stressful situations, make decisions, and take charge is required for a position as a Border Patrol agent. Applicants may qualify through a combination of education and work experience.

Postal inspectors must have a bachelor's degree and 1 year of related work experience. It is desirable that they have one of several professional certifications, such as that of certified public accountant. They also must pass a background suitability investigation, meet certain health requirements, undergo a drug screening test, possess a valid State driver's license, and be a U.S. citizen between 21 and 36 years of age when hired.

Law enforcement agencies are encouraging applicants to take postsecondary school training in law enforcement-related subjects. Many entry-level applicants for police jobs have completed some formal postsecondary education and a significant number are college graduates. Many junior colleges, colleges, and universities offer programs in law enforcement or administration of justice. Other courses helpful in preparing for a career in law enforcement include accounting, finance, electrical engineering, computer science, and

company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

Provisions of 26 U.S.C. enforced and administered by the Bureau. Sections 4181 and 4182 of the Internal Revenue Code of 1986 (the Code), as amended; subchapters F and G of chapter 32 of the Code, insofar as they relate to activities administered and enforced with respect to sections 4181 and 4182 of the Code; subtitle E of the Code; and subtitle F of the Code as it relates to any of the foregoing.

Regional director (compliance). The ATF regional official principally responsible for administering regulations in this part concerning commodity taxes imposed by the provisions of 26 U.S.C. enforced and administered by the Bureau, and for collecting tax by levy (other than third-party levy).

Secretary. The Secretary of the Treasury or designated delegate.

Seizure. The act of taking possession of property to satisfy a tax liability or by virtue of an execution.

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 (26 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 by T.D. ATF-77, 46 FR 3002, Jan. 13, 1981; T.D. ATF-301, 55 FR 47608, Nov. 14, 1990; T.D. ATF-331, 57 FR 40327, Sept. 3, 1992; T.D. ATF-378, 61 FR 29955, June 13, 1996]

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 deemed practicable, cause officers or employees under the regional director's supervision and control to proceed, from time to time, through the region and

inquire after and concerning all persons therein who may be liable to pay any tax, imposed under provisions of 26 U.S.C. enforced and administered by the Bureau, and all persons owning or having the care and management of any objects with respect to which such tax is imposed.

[T.D. ATF-331, 57 FR 40327, Sept. 3, 1992]

§ 70.22 Examination of books and witnesses.

(a) *In general.* 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 tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or in equity of any transferee or fiduciary of any person in respect of any such tax, or collecting any such liability, any authorized officer or employee of the Bureau may examine any books, papers, records or other data which may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(b) *Summonses.* For the purposes described in paragraph (a) of this section the officers and employees of the Bureau designated in paragraph (c) of this section are authorized 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 of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any person deemed proper, to appear before a designated officer or employee of the Bureau 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 take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. The officers and employees designated in paragraph (c) of this section may designate any other



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DEPARTMENT OF THE TREASURY

Internal Revenue Manual

Part 4. Examining Process Chapter 4. AIMS/Processing Handbook Section 22. Non-Master File (NMF) Processing

4.4.22 Non-Master File (NMF) Processing

- [4.4.22.1 Introduction](#)
- [4.4.22.2 NMF Research and Transcripts](#)
- [4.4.22.3 NMF Assessments and Overassessments](#)
- [4.4.22.4 Quick Assessments](#)
- [4.4.22.5 NMF Unapplied Advance Payments Follow-up](#)
- [4.4.22.6 NMF AIMS Closings](#)
- [4.4.22.7 Prompt, Quick, and Jeopardy Assessments](#)
- [4.4.22.8 NMF Returns](#)
- [4.4.22.9 Form 813, Document Register— NMF](#)
- [Exhibit 4.4.22-1 Form 2467 \(Assessment Label\)](#)
- [Exhibit 4.4.22-2 Form 1331— Notice of Adjustment](#)
- [Exhibit 4.4.22-3 Form 1331B— Notice of Adjustment](#)
- [Exhibit 4.4.22-4 Form 2468 \(Overassessment Label\)](#)
- [Exhibit 4.4.22-5 Form 3539, Block Number Control](#)
- [Exhibit 4.4.22-6 Form 813 \(Document Register\) Non-Master File Examined Closings Not Closed Through Terminals](#)

4.4.22.1 (02-08-1999) Introduction

1. This chapter contains procedures on Non-Master File processing.
2. Some returns have not yet been programmed to the Master File (MF) . Also, certain Examination deficiencies cannot be processed to the MF. Adjustments to these returns and returns for pre-ADP periods require forms and procedures different from those used in adjusting MF returns. Some additional code and edit procedures are necessary and blocking and numbering requirements are different.

4.4.22.1.1 (02-08-1999) 1999 Changes

1. Document 6209 is being revised to include a NMF section.
2. CC RMREQ can be used to determine which centers have NMF accounts open on a specific taxpayer.

4.4.22.2 (02-08-1999) NMF Research and Transcripts

1. Researching NMF accounts is also different. There is a system consisting of Index

Cards and Unit Ledger Cards (ULC) and an automated system, Manual Accounting Replacement System (MARS).



4.4.22.2.1 (02-08-1999)

MARS

1. Because MARS provides the service centers and offices the capability for nationwide on-line research and on-line transcript requests of NMF accounts, it is no longer necessary to submit requests to the Accounting Branch for most transcripts or copies of NMF accounts.
 - A. All NMF accounts open in your service center or have been closed since the implementation of MARS in your service center are available for immediate research or transcript requests on a MARS terminal.
 - B. Accounts closed prior to MARS and all NMF accounts in service centers that have not implemented MARS are still requested using Form 4338.
2. To use the MARS system, obtain a unique login from the Automated Systems Branch. You will assign your own password which must be entered with the login each time you access MARS.
 - A. The MARS system allows you to read any entity or transaction on the file by following the instructions displayed with the "Research NMF" option.
 - B. With the "Query" command, you can search for a desired entity by entering the DLN or TIN, MFT, and tax period of the desired record. If you have only partial information, enter the data for any field(s) shown on the screen, then page for the record you need.
 - C. Use the "NMF Transcript" option to request a printed transcript (not a certified transcript) that will be delivered from the NMF unit on the next day. The MARS system does not provide the "print screen" capability that would allow you to copy what you see on the research screen.
3. NMF transcripts are not screen prints. The transcripts are produced from the data base as part of the nightly batch processing and will be available the next day. Accounting will distribute the transcripts, sorted within TIN within the employee's number. The employee number is an input field for transcript requests and will be the same as the current IDRS number. There is no unique employee number for MARS. Out of service center transcripts will be mailed on a daily basis to the appropriate service center.
4. For complete instructions for researching NMF accounts on MARS, refer to IRM 3.17.46, Automated Non-Master Accounting, or contact the NMF unit in the Accounting Branch in the Service Center.



4.4.22.3 (02-08-1999)

NMF Assessments and Overassessments

1. Perform all processing, code and edit functions for all years in file requiring NMF assessment or overassessment for one or more years. Years or periods in the case file not requiring NMF assessment or overassessment should be processed for numbering and blocking in the regular series.
2. Closely examine the name and address line of all documents. In estate tax cases, the name and address must be that of the estate and executor rather than that of the decedent. The taxpayer's address must accompany the adjustment document forwarded to the service center. This may require entering the address on the label attached to the adjustment document.

4.4.22.3.1 (02-08-1999) Assessments

1. Determine the appropriate dates and compute the interest on a deficiency requiring NMF assessment.
2. Interest amounts of less than \$1.00 will not be shown on Forms 5344, 5403 unless the amount has been paid.
3. Form 2467 (see Exhibit 4.4.22-1) is to be affixed to the return and initialed. Show increases in tax, penalty and interest, add them, and show the total. If the IRC Section authorizing the assessment is known, insert it. The date of assessment is the 23C date. The new DLN is the account number.

4.4.22.3.1.1 (02-08-1999) Spousal Assessments

1. See the Innocent Spouse Chapter and the 90-Day Chapter for special processing instructions.

4.4.22.3.1.2 (02-08-1999) NMF Assessment Verification

1. Case Processing Support will establish an Assessment Verification (AV) file for all NMF assessments processed via Form 5734. The Service Center Accounting function will send part 4 of Form 6335 and, if appropriate, related documents to Case Processing Support to verify that the assessment has been made. If verification is not received follow up action will be initiated no later than 15 workdays from the date of the initial submission of Form 5734.

4.4.22.3.2 (02-08-1999) Overassessments

1. A transcript of account (photocopy of unit ledger card) is required in the following instances.
 - A. If the return was not full-paid or overpaid.
 - B. If there is a record of an additional assessment having been made without a record of payment.
 - C. **Exception:**
No transcript is needed if there is a verified advance payment which completely paid the additional assessment.
2. A check for outstanding accounts, both MF and NMF, is required if the overpayment would result in a refund of \$1,000 or more, including allowable interest.
3. Form 1331 or 1331-B must be prepared with entries in Section 1 of the form in agreement with the amounts on the overassessment label. See Exhibits 4.4.22-2 and 4.4.22-3.
 - A. Refund-only Forms 1331, and strictly credit and abatement Forms 1331 should be blocked separately. If there is a combination refund, credit and/or abatement on the Form 1331, this is blocked separately from either of the above. Forms 1331 should be completely filled out, with the exception of the schedule number and date certified, down to and including the "Total abated


and credited" line. The name and address and refund amount should be typed in and all other information should be either typed or written with a pen. They should be neatly prepared without corrections or deletions. The first name line on estate tax cases must show the name of the person to receive the check. A transcript of the account may be used for the record of assessment.

- B. Compute the interest allowable on refunds, using the applicable space on the back of Form 1331. Enter in the "date" column the date to which interest is computed on the overpayment. Allowable interest is computed from the paid date or the due date, whichever is later, to the schedule date if a refund is involved, or the due date of the other account if a credit is involved.
 - C. If the account is not paid, the overpayment is entered as an abatement on the Form 1331. A copy of the ULC or a certified transcript of account is to be stapled to the reverse side of Form 1331 for the account to be abated and to the posting copy. If the account is in "Notice" status, the list week is to be shown.
 - D. If the account is paid but there are other outstanding accounts for the same taxpayer, the overpayment is entered as a credit on Form 1331. This will normally result in an accrual of interest or an abatement of interest on the account receiving the credit. If the account receiving the credit is another NMF account and there is enough credit to apply to accrued interest, the interest can be accrued on Form 1331 by entering it in the credit column, circling the amount in red on the posting copy, and entering code "AI" adjacent to the interest figures. When overpayments are credited to written off accounts, use code "TA" adjacent to the figure in the credit column and circle in red the amount on the posting copy of Form 1331. For credits applied to outstanding liabilities, enter on separate lines in the "Amount Credited" column that part of the unpaid liability, tax, penalty, and interest which are to be satisfied from the current overpayment. The status of the NMF account must be entered on the posting copy of Form 1331. If an abatement of interest is involved, it is necessary to prepare a Form 1331-B to decrease the interest on the other account.
 - E. If the overassessment is on an account that is paid in full, and there are no other outstanding accounts for the taxpayer, the overpayment is scheduled for refund.
 - F. If interest was assessed on the account that has an overpayment, interest should be decreased proportionately unless a restricted condition prohibits it. An exception is encountered when an estate tax (Form 706) assessment is paid by treasury bonds. In these situations send a copy of page 1, Form 706 to the service center Accounting Branch with a memorandum giving all pertinent information. Interest will not be computed on these cases.
4. Affix Form 2468 to the return and initial the label. See Exhibit 4.4.22-4. Show the decrease in tax and/or penalty. After computing interest on the correct tax liability, compare it with the interest previously assessed and enter the overassessment of assessed interest, if any. Do NOT enter interest allowable on any overpayment. Make no entry for the schedule number.

4.4.22.3.3 (02-08-1999)

Combination Cases— Assessments and Overassessments

1. When both assessments and overassessments are involved in the same case, the earliest overpayments are applied to the earliest assessments on the Form 1331 by completing the credit portion on the bottom and entering the DLN or account number of the assessment that is being credited. The record of assessments and payments is to be completed (back of file copy of Form 1331) showing the account being credited and the status of the account. If it is an account being assessed at this time,



the new DLN and 23C date of the account will be entered by the Accounting Branch. If a transcript of an old account was requested and it does not show the status, request Examination at the service center to identify the unit to be contacted to obtain the current status.

- A. **Assessment:** Interest is computed on the assessment from the due date of the deficiency to the date the overpayment was available. Any amount not covered by credit will have interest computed in the normal manner. If the available date of the overpayment is before the due date of the assessment, no interest is due on the assessment.
- B. **Overpayment:** Allowable interest is computed on the overpayment from the paid date or the due date of the return, whichever is later, to the due date of the deficiency. If the deficiency is due before the available date of the overpayment, no interest is allowed on the overpayment unless the overpayment is greater than the assessment(s). Then, interest is allowed on the balance in the normal manner. Interest is allowed on the overpayment applied to interest assessed on a deficiency for another period to the date the interest is assessed, except no interest can be allowed past the schedule date.
- C. **Exception:**

These instructions are not applicable where one taxpayer agrees to the application of credit to a deficiency for another taxpayer. In this case, interest is computed on the deficiency without regard to the overpayment and interest is allowed on the overpayment to the schedule date. The tax and allowable interest are then credited to the deficiency through entries in the credit column on the Form 1331.


- 2. When an overpayment is to be applied to an assessment that has not been made, it is necessary to keep the file together until the deficiency is numbered so that the assessment number can be entered on the Form 1331 with the 23C date of the assessment; the assessment and overassessment must have the same 23C date. The posting copy is not acceptable without this information.

4.4.22.4 (02-08-1999)

Quick Assessments

- 1. NMF quick assessments are processed in the same manner as MF, except the numbering is different and abstract codes are required for IMF and BMF adjustments. See IRM 3.17.46.
- 2. Assessment verification on NMF quick assessments will be executed in the same manner as they are for MF quick assessments. Refer to Quick Assessments for those procedures.

Note:



Form 6335 is the billing received by the taxpayer on NMF quick assessments.

- 3. If there has been a NMF assessed advance payment paying tax, penalty and interest in full it is not necessary to use quick assessment procedures because the assessment will have already been made as of the 23C date shown on the copy of part 1 of Form 3244-A. These should be numbered and processed as any other NMF assessment. If the advance payment does not pay the tax, penalty and interest in full, quick assessment procedures should be used. The request should specify the amount of payment for accounting to allow credit against the assessment.
- 4. Where the quick assessment is for tax shown on a delinquent NMF return, the return

will be submitted with Form 2859 in lieu of Form 5344 or 5403. After the original delinquent return is processed, requisition the return. When the return is received, process Form 5344 or 5403.

4.4.22.5 (02-08-1999)

NMF Unapplied Advance Payments Follow-up

1. Semiannually, the Service Center Accounting Branch prepares a list of unapplied NMF advance payments which have been held six months or more to ascertain whether these payments apply to cases previously processed or through some error the payment is still classified as an advance payment. The Service Center Accounting Branch will forward the original and triplicate of the list to Case Processing Support.

4.4.22.5.1 (02-08-1999)

ESP Procedures

1. Furnish the current status of each case under the "Remark" column of the list.
2. Examine the AIMS data base, both MF and NMF, to determine status or disposition of the case.
3. Research MF and NMF, to determine if assessment was made.
4. Annotate both copies of the list to show the status or disposition (including dates).
5. Retain triplicate of the list.
6. Return original of the list to the Service Center Accounting Branch for processing.
7. Maintain the triplicate of the list until receipt of the next semiannual list.
8. Compare the data from the current list with any prior lists to determine if duplicate reference is contained on the new list.
9. If research on the previous list provided the status of the case, transfer this information to the new list and follow up to assure that the research is still accurate.

4.4.22.6 (02-08-1999)

NMF AIMS Closings

1. NMF cases are closed using Form 5344 for examined and Form 5351 for non-examined cases.

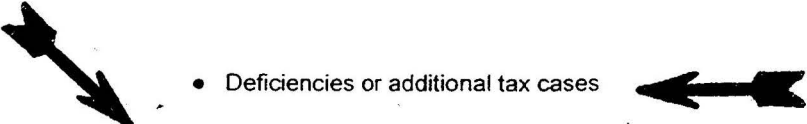
Exception:

See Text IRM 4.4.22.6.2 for Disposal Code 28 cases. The processing functions perform the following tasks after completing code and edit of the NMF closing documents.

4.4.22.6.1 (02-08-1999)

NMF Examined Closings

1. Sort returns by NMFT.
2. Then sort into the groups listed below. Each group requires a separate block. A maximum of 50 closings may be combined in one block.

- 
- Deficiencies or additional tax cases
 - No change cases
 - Overassessments to be refunded
 - Overassessments with credit applied to another account, and abatements
 - Cases protested to Appeals Office
 - Cases with advance payments— full payment
 - Cases with advance payments— partial payment

3. Assign appropriate blocking series.
4. Log the blocking series on Form 3539. See Exhibit 4.4.22-5.
5. Close through terminals.
6. Number the closures with the generated DLN. See Text 4.4.22.6.4.
7. Forward cases to service center processing. Service center processing will associate and compare closed blocks with related Forms 813B (if errors exist, return block for correction). Service center will forward closed cases to NMF Accounting function.

4.4.22.6.2 (02-08-1999) NMF Non-Examined Closings

1. Sort closing documents by NMFT Code.
2. Then sort into the groups listed below. Each group requires a separate block. A maximum of 50 closings may be combined in one block.
 - Cases with Disposal Codes 28. See Text 4.4.22.6.2.1.
 - All other non-examined disposal codes
3. Assign appropriate blocking series.
4. Log the blocking series on Form 3539. See Exhibit 4.4.22-5.
5. Close through terminals.
6. Annotate the closure with the generated DLN. See Text 4.4.22.6.4.
7. Prepare Form 813 and associate with closed cases. See Text 4.4.22.9.
8. Forward NMF non-examined cases to NMF Accounting function for indexing.

4.4.22.6.2.1 (02-08-1999) Disposal Code 28

1. Disposal Code 28 is used to dispose of a NMF AIMS data base that was established

for control purposes only. Form 10904 is the closure document. The closing function will perform the following tasks:

- a. Sort first by NMF MFT, then by File Source (N and -D) to create blocks for terminal input.
- b. Assign a blocking series of 100 to the first block, 101 to the next, etc. until all blocks have been assigned a number.
- c. Input through the terminal.
- d. After terminal closure, retain these forms in searchable order and dispose of them in accordance with IRM 1.15, Records Disposition Handbook. At the option of area offices, arrangements may be made to have the forms numbered and closed to service centers for retention (this would necessitate the manual preparation of Forms 813B) . See IRM 4.4.22.9.1.

4.4.22.6.3 (02-08-1999)

Terminal Closure

1. Once a block of NMF examined or non-examined closings have been input, the terminal operator receives an AMBLK print-out (which should be attached to the block), showing the first DLN, the last DLN, the total examination results, total assessments, and credits for the block. It provides information needed to physically number the closings with the refile DLN.
2. As a result of the terminal input, an Examination Document Register, Form 813B, is generated by computer for NMF examined closings.
3. A Form 813 must be prepared manually for nonexamined closings (except Disposal Code 28) closed through the terminal. See Text 4.4.22.9.

4.4.22.6.4 (02-08-1999)

Stamping the DLN

1. Stamp the DLN number on the closing document and the tax return when present. The ink color used to stamp the DLN represents the year of numbering as follows:

IF last digit of the year is	THEN use
1 or 6	purple ink
2 or 7	red ink
3 or 8	black ink
4 or 9	blue ink
5 or 0	green ink

2. Line out all earlier DLNs. Keep the documents in order so that the DLN stamped on the document is in the same sequence as assigned by the terminal.

4.4.22.7 (02-08-1999)

Prompt, Quick, and Jeopardy Assessments

1. Use the appropriate area office code and tax class. Use Document Code 51 instead of 47. The Julian date of the DLN is determined in the normal manner except that the current date is used for Jeopardy or immediate assessments and for deficiencies over \$50,000.

4.4.22.8 (02-08-1999)

NMF Returns

1. In addition to the return, stamp the DLN (except those in a non-refile series) on these documents.
 - Assessment document (Form 5344 or 5403).
 - Form 1296 (constitutes return), if present.
 - Form 2467 or 2468, if present.
2. When more than three penalties are shown for a period, assign a second DLN to the excess penalties.
3. The regular weekly 23C date for NMF assessments and overassessments is the Monday of the third week following the week in which the Form 5344 or 5403 is released to the NMF Accounting function. Monday is used as the 23C date even though it may be a holiday.
4. Number NMF cases transferred to Appeals in the 1XX blocking series. Form 5344 remains in the case file and accompanies the return to Appeals.
5. The DLN is assigned by the terminal and is comprised of the appropriate two digit area office code, Tax Class 6, Document Code 47 and the Saturday date prior to the 23C or schedule date. Areas use the prior Sunday date. Serial numbers will be assigned in the range 00–99.

4.4.22.9 (02-08-1999)

Form 813, Document Register— NMF

1. When an NMF examined closing is input at the terminal, a Form 813B is automatically generated at the service center.

4.4.22.9.1 (02-08-1999)

813B Association

1. When an NMF block is received at the service center for association with the generated Form 813B, the block is compared to the generated Form 813B for accuracy.
2. The function responsible for association must follow up within a prescribed time frame if the block is not received. The time frame will be determined locally on normal mailing time.
3. Once the returns are associated with the Forms 813B, they are routed to the service NMF Accounting function.
4. Agreement may be secured from the NMF Accounting function in the individual service centers to allow area offices to manually prepare Form 813B and ship directly to the NMF Accounting function. Generated Forms 813B for cases from areas using the manually prepared Form 813B should be destroyed.
5. Form 813B generated for NMF closings to Appeals are not needed and should be destroyed. They can be identified by the NMFT code, the 100 blocking series, and the lack of adjustment data.

4.4.22.9.2 (02-08-1999)

Case File Shipments

1. When closed blocks of NMF cases are to be associated with systematically generated Forms 813B, areas must ship the closed blocks within two workdays from the date of closure through the terminal.
2. If a shipment date cannot be met or if it becomes necessary to cancel a block, areas must immediately notify the service center function responsible for 813B association by telephone.
3. If it is necessary to return a case to the area, Form 3210 will be used for control purposes.

4.4.22.9.3 (02-08-1999)

Manually Prepared Form 813 for NMF Examined Closings

1. Situations may exist when it is necessary to prepare Form 813 for NMF adjustments that are not input on the terminal.
2. When Form 813 is prepared on NMF accounts write the type of action, as described below, near the form title "Document Register."
 - A. "NMF Assessment (23C date)"
 - B. "NMF Refund (scheduled or 23C date)— Overassessment"
 - C. "NMF Abatement and Credit (schedule or 23C date)— Overassessment"
 - D. "NMF No Change"
 - E. "NMF Assessed Advance Payments (23C date)"
 - F. "NMF Quick Assessment"
3. Additional instructions include the following:
 - A. Prepare a Form 813 for each numbered block. A separate Form 813 is required for each MFT code.
 - B. When practical, block deficiencies, overassessments and no-change cases on separate Forms 813.
 - C. List deficiencies (debits) with no sign and overassessments (credits) with a minus sign. Note the block total "net debit" or "net credit" as appropriate for mixed blocks. If the block is not mixed note the block total "debit" or "credit". Label a block total of zero as "debit".
 - D. A no-change document will occupy a blank line with a non-key sign.
 - E. If both debit and credit tax, penalty and/or interest adjustments apply for one tax period, enter the net amount from Item 12 of the Form 5344.
 - F. List any change in credits (Item 15 on Form 5344) in a column to the left of tax adjustment amounts. List increases with no sign and decreases with a minus sign. Write "credit changes" to the left of this column. Do NOT combine or net credit changes with tax, penalty and/or interest. Enter the column total for the block in the lower-left corner. Write "Credit Change Increase" or "Credit Change Decrease" as appropriate after the amount and underline it.

- See Exhibit 4.4.22-6 for an example of Form 813.

4.4.22.9.4 (02-08-1999)

Preparing Form 813— NMF Non-examined Closings

- Form 813 must be prepared manually for NMF all non-examined closings except Disposal Codes 28.
- NMF non-examined closings and Forms 813 are routed to service center Accounting function for NMF indexing.
- Instructions for completing Form 813 for nonexamined closings are in Exhibit 4.4.22-6 (Cont 1).

Exhibit 4.4.22-1 (02-08-1999)

Form 2467 (Assessment Label)

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Exhibit 4.4.22-2 (02-08-1999)

Form 1331— Notice of Adjustment

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- The type of return to which this adjustment will be applied.
- The year and the month ending of the tax period being adjusted. On Forms 706, the date of death.
- Name, address and ZIP code of the taxpayer as shown on the document being adjusted. Include EIN and/or SSN when available. On refunds, the check will be issued in the name shown in this item.
- The amount of tax withheld as reflected on the return from Form W-2 or 2439, whichever is applicable. Insert the word "None" when adjusting returns that do not show a reduction of tax due to prepayment credits.
- The amount of estimated tax paid as verified by transcript or documents attached. Insert the word none when adjusting returns that do not show a reduction of tax due to prepayment credits.
- The DLN of the estimated payment if available. When an adjustment is due to an allowance of estimated credits only, the DLN is required.
- The amount of tax penalties and interest assessed on the return. This amount will consist of any remittance paid with the return, and any additional amount assessed prior to deposit action.
- DLN of return.
- Any additional tax assessed and/or duplicate return assessment and any penalties or interest assessed.
- The math error or duplicate assessment DLN.
- The total of lines 1, 2, 3 and 4.
- The correct liability after verification of the document being adjusted.
- Subtract line 6 from line 5.
- Less amounts previously refunded or credited to other accounts— examine returns to be sure that all previous adjustments to the account are considered before entering the net overcharge. Also enter the schedule number from the sticker or stamp on the return. If none, write "none".
- Subtract line 8 from line 7. This amount must agree with the label (Form 2468) and Form 813 amount.
- Check the appropriate block. If other, give a brief explanation of the reason for the adjustment.
- Date of preparation.
- Initials of preparer.
- Tax period and account number and the amount of the net overcharge if

the account is paid.

20. Interest due taxpayer or refund.

21. Amount of check— total due taxpayer.

22. Tax period and account number of the account being abated along with the amount of the abatement. Where the tax, penalty, and/or interest is to be abated, show each separately preceded by "T", "P" or "I".

23. Tax period and account number of each account receiving credit. Identify as tax (T), penalty (P) and interest (I).

24. If interest is allowable on the overpayment and is to be credited to an outstanding account, enter the tax period, account number and amount of interest credit.

*** On refunds when the account is full paid, use the interest calculation space on the back of Form 1331 to compute allowable interest. Enter the amount of overassessment and allowable interest in Section II of Form 1331. The date interest was computed to is also entered.

Exhibit 4.4.22-3 (02-08-1999) Form 1331B— Notice of Adjustment

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1. The type of return to which this adjustment will be applied.
2. The year and ending month of the tax period being adjusted, in YYYYMM format. For claims on gasoline over \$1,000, use the period shown on Form 843. For claims on Form 2439 (Notice to Shareholder of Undistributed Long-Term Capital Gains), use the calendar year.
3. The name and address as shown on the claim and/or Form 2439. Otherwise, use the name and address shown on the document being adjusted.
4. The computation of the oveassessment or the amount to be refunded or the reason for the action if a tax computation is not appropriate. When adjusting returns of the same class of tax for the same taxpayer, more than one period or computation may be included in Section I. Be sure that appropriate references are made in Item 2, above, when more than one period or claim is involved. Document locator numbers will also appear in this area whenever a DLN has been assigned.
5. Date of preparation.
6. Initials of preparer.
7. Section II of Form 1331-B is completed in the same manner as Section II, Form 1331 (see Items 19–24 in Exhibit 4.4.22–3).

Exhibit 4.4.22-4 (02-08-1999) Form 2468 (Overassessment Label)

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Exhibit 4.4.22-5 (02-08-1999) Form 3539, Block Number Control

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Exhibit 4.4.22-6 (02-08-1999) Form 813 (Document Register) Non-Master File Examined Closings Not Closed Through Terminals

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1. Leave blank.
 2. Enter the first eleven digits of the DLN.
 3. Enter the date Form 813 is prepared.
 4. Circle the number of closing in the block.
 5. Enter the total examination results, i.e. the total of amounts entered in Item 18 of Forms 5344. Indicate "Debit" or "Credit" (increases or decreases), as appropriate.
 6. Enter total Debit or Credit, as appropriate. If zero, identify as "Debit" .
 7. Enter total "Credit Change Increase" or total "Credit Change Decrease" , as appropriate.
-

(Reference: Text 104.3.22.3.1)

Assessment	Dist.	
Tax	1	
\$		
Pen.	2	
\$		
	3	
\$		
Int.	4	5
\$		
Total	6	
\$		
IR Code	7	
Section		
Initials	8	Assessm't Date
		9
Account No.	10	



1. Increase in tax liability only. When an NMF return has been numbered and it is discovered that additional tax is necessary to use Form 2467 and renumber the document.
2. Increase in penalty on the amount of tax increase at the same rate as the original assessment (when required).
3. Description and amount of penalties being assessed.
4. Interest on the increase in tax from the due date of the return to the current assessment date. In the case of an assessed advance payment on a deficiency of any case where the remittance was received prior to the assessment, interest will be computed to the date of receipt of payment.
5. Interest computation date.
6. Total of items 1, 2, 3 and 4 above.
7. The section of the Internal Revenue Code authorizing the assessment, when known.
8. Initials of the preparer.
9. 23C date of the assessment
10. New DLN.

(Reference: Text 104.3.22.3.2)

Form 1331 (Revised July 1961)	Department of the Treasury - Internal Revenue Service Notice of Adjustment	Schedule number <hr/> Date certified <hr/> Serial number
Your tax return form number <hr/> Tax period	Your tax liability for the tax period shown has been decreased. All amounts previously charged and all previous decreases are shown in Section I below. The amount of this decrease has been disposed of by (1) elimination of liability, (2) credit, or (3) refund, as explained in Section II.	
Name and address of taxpayer <div style="border: 1px solid black; height: 40px; width: 100%;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px; margin-left: auto; margin-right: auto;"></div> <p style="text-align: center; font-size: small;">Amount of check if check is enclosed</p>

Section I. Computation of Decrease in Liability						
Item	Tax	Penalty	Penalty	Penalty	Interest	
1. Tax withheld	\$ 4					
2. Paid on estimated tax	5					
3. Tax due per return	7	\$	\$	\$	\$	
4. Additional tax charged - Account Number 8	9					
5. Total tax previously charged 10	11					
6. Less: Correct tax	12					
7. Decrease in liability	13					
8. Less: Amounts previously refunded or credited to other accounts	14					
9. Net decrease in liability	\$ 15	\$	\$	\$	\$	
10. Reason for adjustment <input type="checkbox"/> Other (specify)						Date 17 <hr/> Prepared by 18
<input type="checkbox"/> Explained in examiner's report, a copy of which was furnished to you						
<input type="checkbox"/> Claim <input type="checkbox"/> Amended return						

Section II. Disposition of Decrease in Liability and Interest allowed on Overpayment				
Kind of Disposition	Tax Period Account Number	Amount	Allowable Interest computed to	Total Paid
Refund		\$ 19		\$ 21
Allowable interest paid		\$ 20		
Elimination - Liability not paid or owed	22			
Credit (amount overpaid) applied as credit to tax (T), penalty (P), and interest (I) due on other outstanding accounts	33			
Total decrease in liability eliminated and credited				\$
Allowable interest credited	24	\$		\$
Total amount eliminated and credited				\$
District or Service Center	Director	Completed by		Date

Part 1 - Taxpayer's copy

Cat. No. 17356L

Form 1331 (Rev. 7-61)

(Reference: Text 104.3.22.3.2)

Form 1331-B (Revised July 1981)	Department of the Treasury — Internal Revenue Service Notice of Adjustment	Schedule number _____ Date certified _____ Serial number _____
Your tax return form number _____ Tax period <u>1</u> _____ <u>2</u> _____	←	Your tax liability for the tax period shown has been decreased. All amounts previously charged and all previous decreases are shown in Section I below. The amount of this decrease has been disposed of by: (1) elimination of liability, (2) credit, or (3) refund, as explained in Section II.
Name and address of taxpayer <div style="border: 1px solid black; width: 100%; height: 40px; margin: 5px 0;"></div>		\$ _____ Amount of check if check is enclosed

Section I. Computation of Decrease in Liability

4

	Date <u>5</u>	Prepared by <u>6</u>		
Section II. <u>7</u> Disposition of Decrease in Liability and Interest allowed on Overpayment				
Kind of Disposition	Tax Period Account Number	Amount	Allowable Interest computed to	Total Paid
Refund		\$		\$
Allowable interest paid		\$		
Elimination— Liability not paid or owed				
Credit (amount overpaid) applied as credit to tax (T); penalty (P), and interest (I) due on other outstanding accounts				
Total decrease in liability eliminated and credited				\$
Allowable interest credited		\$		\$
Total amount eliminated and credited				\$
District or Service Center	Director		Completed by	Date

Part I — Taxpayer's copy

Form 1331-B (Rev. 7-81)

(Reference: Text 104.3.22.3.2)

Over assess- ment	Dist
Tax	
\$	1
Pen	2
\$	3
\$	
Int.	4
\$	5
Total	
\$	6
Initials	
Sched.	
No.	7

1. Decrease in tax liability. Form 2468 will be used on all NMF adjustments resulting in a decrease of tax liability, including amounts to be transferred to the Master File.
2. Decrease in penalty, when applicable.
3. Description and amount of any other penalty decrease caused by the over-assessment action.
4. Compute the interest on the correct tax liability; compare with interest previously assessed and insert the overassessment of assessed interest if any. Do not enter interest allowable on any overpayment.
5. The total of Items 1, 2, 3, and 4 above.
6. Initials of the preparer.
7. Leave blank. This will be inserted by the examiner who prepares the SF 1166 and/or SF 2188.

(Reference: Text 104.3.22.6.1 and 104.3.22.6.2)

Block Number Control					Page number:
File Location Code	Tax Class	Docu-ment Code	Form number and title		Program Number
Date	Number		Item Count	Remarks	
	Beginning			Ending	
Total this page			▶		
Cumulative total for week of _____			▶		
Cumulative total since January 1, 19____			▶		

Form **3539** (Rev. 12-92)
Cat. No. 22320H
Department of the Treasury
Internal Revenue Service

Whenever the block number is manually assigned for NMF closings input to the terminal, a log of assigned numbers must be maintained on this form.

(Reference: Text 104.3.22.6.6.3)

Alpha-Numeric SIC Block No.	Document Register		B I D o L c N k	2	Y P
	<input type="checkbox"/> Perfect <input type="checkbox"/> Regular	<input type="checkbox"/> Imperfect <input type="checkbox"/> Estimated			
1	Batch Or Number	Count Code	Trans. Code	Date	3
		00			50
		01			51
		02			52
		03			53
		04			54
		05			55
		06			56
		07			57
		08			58
		09	4		59
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			Adjustment		
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UNITED STATES CODE SERVICE



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26 USCS

Internal Revenue Code

§§ 6001 – 6800

2001



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- B. Receipt of payment.
- C. Lien for taxes.
- D. Seizure of property for collection of taxes.

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Amendments:**

In 1990, P.L. 101-508, Sec. 11801(b)(14), deleted the item for subchapter E. Prior to deletion, the item for subchapter E read as follows:
 "E. Collection of State individual income taxes."

SUBCHAPTER A. General Provisions

- Sec.
- 6301. Collection authority.
 - 6302. Mode or time of collection.
 - 6303. Notice and demand for tax.
 - 6304. Fair tax collection practices.
 - 6305. Collection of certain liability.

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Amendments:**

In 1998, P. L. 105-206, Sec. 3466(b), added item 6304.
 In 1975, P.L. 93-647, Sec. 101(b)(2), added item 6305.

§ 6301. Collection authority.

The Secretary shall collect the taxes imposed by the internal revenue laws.

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Amendments:**

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in Code Sec. 6301, effective 2/1/77.

Other provisions:

Approval process for liens, levies, and seizures. Act July 22, 1998, P. L. 105-206, Title III, Subtitle E, Part III, Subpart A, § 3421, 112 Stat. 758, provides:

"(a) In general. The Commissioner of Internal Revenue shall develop and implement procedures under which—

"(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken; and

"(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

"(b) Review process. The review process under subsection (a)(1) may include a certification that the employee has—

"(1) reviewed the taxpayer's information;

"(2) verified that a balance is due; and

"(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

"(c) Effective dates. (1) In general. Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act.

"(2) Automated collection system actions. In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000."

CODE OF FEDERAL REGULATIONS

- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Wine, 27 CFR Part 24.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Beer, 27 CFR Part 25.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Manufacturers excise taxes—firearms and ammunition, 27 CFR Part 53.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Procedure and administration, 27 CFR Part 70.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Liquors and articles from Puerto Rico and the Virgin Islands, 27 CFR Part 250.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Manufacture of tobacco products and cigarette papers, 27 CFR Part 270.
- Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury—Importation of tobacco products and cigarette papers and tubes, 27 CFR Part 275.

CROSS REFERENCES

USCS Administrative Rules, IRS, 26 CFR §§ 601.103, 601.104.
 Collection of tax on distilled spirits, 26 USCS § 5007.
 Collection of tax on wines, 26 USCS § 5043.
 Collection of tax on beer, 26 USCS § 5054.
 Seizure of property for collection of taxes, 26 USCS §§ 6331 et seq.
 Limitations on collection, 26 USCS §§ 6501-6504.
 Collection of foreign items, 26 USCS § 7001.
 Judicial proceedings to collect taxes, 26 USCS §§ 7401 et seq.
 Repayments to officers or employees of United States of monies recovered against them in court, 26 USCS § 7423.
 Bond to stay collection, 26 USCS § 7485.

RESEARCH GUIDE

Federal Procedure:

20 Fed Proc L Ed, Internal Revenue §§ 48:550, 688.

Annotations:

Taxpayer's right under 28 USCS § 2410(a) to challenge procedures followed in imposing and enforcing federal tax lien on his property. 38 ALR Fed 900.

Suspension of running of period of limitation, under 26 USCS § 6503, for federal tax assessment or collection. 41 ALR Fed 370.

Waiver of restrictions on assessment and collection of deficiency in federal tax. 11 ALR2d 903.

Law Review Articles:

Harnack and Krislov. Impact of Code Sections 6301, 6110 and 7609 Upon IRS Audits. 54 Taxes 846, December, 1976.

INTERPRETIVE NOTES AND DECISIONS

1. Authority and duties of collectors
2. Regulations and directives
3. Invalid tax or assessment
4. Liability of collectors
5. Particular taxes

1. Authority and duties of collectors

Where internal revenue tax has been duly assessed by Commissioner of Internal Revenue, collector is under ministerial non-discretionary duty to proceed to collect it. *George Moore Ice Cream Co. v Rose* (1933) 289 US 373, 77 L Ed 1265, 53 S Ct 620, 3 USTC ¶ 1100, 12 AFTR 54.

Collectors of internal revenue are subordinate officers charged with ministerial duty of collecting taxes; collector of internal revenue is without authority to release, without full payment, surety bond given to him as security for payment of Federal income taxes. *Royal Indem. Co. v United States* (1941) 313 US 289, 85 L Ed 1361, 61 S Ct 995, 41-1 USTC ¶ 9487, 25 AFTR 1259, reh den 314 US 708, 86 L Ed 565, 62 S Ct 52, 27 AFTR 303.

Collector has no authority to add interest to assessment made by Commissioner. *Crompton & Knowles Loom Works v White* (1933, CA1 Mass) 65 F2d 132, 3 USTC ¶ 1095, 3 USTC ¶ 1104, 12 AFTR 495, cert den 290 US 699, 78 L Ed 578, 54 S Ct 89.

Power of collector to take bond running to United States to secure payment of tax in consideration for delay in collecting it is well established, whether or not tax is immediately due and collectible. *United States v Fidelity & Deposit Co.* (1935, CA9 Cal) 80 F2d 24, 35-2 USTC ¶ 9601, 16 AFTR 1367, cert den 298 US 665, 80 L Ed 1390, 56 S Ct 747.

Although Treasury regulations establish voluntary compliance as general method of income tax collection, Congress gave Secretary of the Treasury power to enforce income tax laws through involuntary collection. *United States v Tedder* (1986, CA10 Kan) 787 F2d 540, 86-1 USTC ¶ 9426, 57 AFTR 2d 86-1115.

IRS does not have obligation to permit payments of unpaid installment taxes on installment basis, and court rejects taxpayer's argument that IRS must accept installment proposal rather than other collection remedies, such as levy, where there is indication that levy might lead to demise of taxpayer's business. *Kitchen Cabinets, Inc. v United States* (2001, ND Tex) 2001-1 USTC ¶ 50287, 87 AFTR 2d 1393.

2. Regulations and directives

IRS failure to give taxpayer notice and demand for payment does not bar IRS from bringing civil action to collect unpaid taxes; requirement of notice and demand has purpose of protecting taxpayers from summary administrative powers, so that failure to give notice cuts off only IRS administrative remedies, not its judicial remedies. *United States v McCallum* (1992, CA5 Tex) 970 F2d 66, 92-2 USTC ¶ 50448, 70 AFTR 2d 92-5590.

Judicial notice can be taken of general written instructions to collectors issued by internal revenue department. *Accardo v Fontenot* (1920, ED La) 269 F 447, 2 AFTR 1310, affd (CA5 La) 278 F 871, 2 AFTR 1607.

3. Invalid tax or assessment

Without valid assessment, tax cannot be collected. *Eidman v Tilghman* (1905, CA2 NY) 136 F 141, affd 203 US 580, 51 L Ed 326, 27 S Ct 779; *United States v Marion Trust Co.* (1906, CA7 Ind) 143 F 301, affd 206 US 566, 51 L Ed 1191, 27 S Ct 794; *Farrell v United States* (1909, DC Ark) 167 F 639.

Where IRS presents Form 4340, record of certificate of assessment and payment, such form is presumptive evidence that notice and demand were sent to taxpayer prior to lien on his property; where taxpayer fails to prove that actual notice was not received, there is insufficient evidence to rebut presumption of validity. *Bliss v United States* (1992, ED Wash) 92-2 USTC ¶ 50528, 70 AFTR 2d 92-5473.

4. Liability of collectors

Liability cannot be fastened upon collector, minis-

terial officer, for enforcement of assessment for taxes regular on its face, made by Commissioner of Internal Revenue. *Erskine v Hohnbach* (1872) 81 US 613, 20 L Ed 745, 2 AFTR 2271; *Haffin v Mason* (1873) 82 US 671, 21 L Ed 196, 2 AFTR 2280; *Harding v Woodcock* (1890) 137 US 43, 34 L Ed 580, 11 S Ct 6.

Where assessor of internal revenue has right to decide whether person is liable to taxation, list delivered by him to collector, properly certified, is his warrant to seize and sell property in case taxes are not paid after demand; collector is not trespasser for selling property of person assessed to collect such tax, although assessor may have proceeded in mode not authorized in making assessment. *Haffin v Mason* (1873) 82 US 671, 21 L Ed 196, 2 AFTR 2280.

Despite federal statutes recognizing suits against collectors of internal revenue for duties mistakenly collected, suit may not be brought and maintained against such officer for recovery of amount of federal internal revenue tax unlawfully assessed and collected, but in collection and disbursement of which such collector had no agency, entire transaction of such assessment, collection, and disbursement having occurred during incumbency of such office of predecessor in office of such collector. *Smietanka v Indiana Steel Co.* (1921) 257 US 1, 66 L Ed 99, 42 S Ct 1, 1 USTC ¶ 53, 3 AFTR 3121.

Collector is suable in action to recover overpayment of tax not because he is trespasser or wrongdoer, but because he represents United States to which

money has been turned over and by which any judgment against collector will be satisfied unless, in opinion of district court, collector acted without probable cause. *United States v Piedmont Mfg. Co.* (1937, CA4 SC) 89 F2d 296, 37-1 USTC ¶ 9220, 19 AFTR 305.

Collector was not officer of court subject to summary process requested by taxpayer seeking to have lien against bank account sued upon or vacated. *Westheimer v Collector of Internal Revenue* (1935, SD NY) 12 F Supp 20, 35-1 USTC ¶ 9147, 16 AFTR 742.

Suit against collector for fraud in issuing liens could not be maintained even if fraud was proved, since collector is not personally liable for performing his duties. *Sidbury v Gill* (1952, ED NC) 102 F Supp 483, 52-1 USTC ¶ 9213, 41 AFTR 778.

5. Particular taxes

Commissioner of internal revenue has authority to prescribe regulations for inspection of cigars and collection of the tax thereon, to prevent frauds in payment of such tax. *Ludloff v United States* (1883) 108 US 176, 27 L Ed 693, 2 S Ct 475.

Collector is required to collect processing tax under Agricultural Adjustment Act [7 USCS §§ 601-620], which specifically directs collection of such tax by bureau of internal revenue. *Danahy Packing Co. v McGowan* (1935, WD NY) 11 F Supp 920, 16 AFTR 716.

§ 6302. Mode or time of collection.

(a) **Establishment by regulations.** If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) **Discretionary method.** Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) **Use of government depositaries.** The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(d) **Time for payment of manufacturers' excise tax on sporting goods.** The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.

(e) **Time for deposit of taxes on communications services and airline tickets. (1) In general.**

Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

(2) **Special rule for tax due in September. (A) Amounts considered collected.** In the case of a person required to make deposits of the tax imposed by—

(i) section 4251, or

(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

(B) **Special rule where September 29 is on Saturday or Sunday.** If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

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	RIA FEDERAL TAX REGULATN 07/04- PRINT	10/04	1	0.00		129.75	129.75	0.00	14.50	10.11		\$154.36
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RIA FEDERAL TAX REGULATIONS

Including Proposed Regulations

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shareholder's estate shall not be treated as a pass-through shareholder.

(iv) Determination made annually. The determination of whether an S corporation meets the requirements for the exception under paragraph (c)(2)(ii) of this section shall be made for each taxable year of the corporation. Thus, an S corporation which does not qualify as a small S corporation in one taxable year may qualify as a small S corporation in another taxable year if the requirements for the exception under paragraph (c)(2)(ii) of this section are met with respect to that other taxable year.

(v) Election to have subchapter D of chapter 63 apply. (A) In general. Notwithstanding paragraph (c)(2)(ii) of this section, a small S corporation may elect to have the provisions of subchapter D of chapter 63 of the Code apply with respect to that corporation.

(B) Method of election. A small S corporation shall make the election described in paragraph (c)(2)(v)(A) of this section for a taxable year of the corporation by attaching a statement to the corporate return for the first taxable year for which the election is to be effective. The statement shall be identified as an election under § 301.6241-1T(c)(2)(v)(A), shall be signed by all persons who were shareholders of that corporation at any time during the corporate taxable year to which the return relates, and shall be filed at the time (determined with regard to any extensions of time for filing) and place prescribed for filing the corporate return.

(C) Years covered by election. The election shall be effective for the taxable year of the corporation to which the return relates and all subsequent taxable years of the corporation unless revoked with the consent of the Commissioner.

T.D. 8122, 1/27/87.

§ 301.6245-1T Subchapter S items.

Caution: The Treasury has not yet amended Reg § 301.6245-1T to reflect changes made by P.L. 104-188.

(a) In general. For purposes of subtitle F of the Internal Revenue Code of 1986, the following items which are required to be taken into account for the taxable year of an S corporation under subtitle A of the Code are more appropriately determined at the corporate level than at the shareholder level and, therefore, are subchapter S items:

(1) The S corporation aggregate and each shareholder's share of, and any factor necessary to determine, each of the following:

- (i) Items of income, gain, loss, deduction, or credit of the corporation;
- (ii) Expenditures by the corporation not deductible in computing its taxable income (for example, charitable contributions);
- (iii) Items of the corporation that may be tax preference items under section 57(a) for any shareholder;
- (iv) Items of income of the corporation that are exempt from tax;
- (v) Corporate liabilities (including determinations of the amount of the liability, whether the corporate liability is to a shareholder of the corporation, and changes from the preceding year); and
- (vi) Other amounts determinable at the corporate level with respect to corporate assets, investments, transactions, and operations necessary to enable the S corporation or the shareholders to determine—

(A) The general business credit provided by section 38;

(B) Recapture under section 47 of the credit provided by section 38;

(C) Amounts at risk in any activity to which section 465 applies;

(D) The depletion allowance under section 613A with respect to oil and gas wells;

(E) Amortization of reforestation expenses under section 194;

(F) The credit provided by section 34 for certain uses of gasoline and special fuels; and

(G) The taxes imposed at the corporate level, such as the taxes imposed under section 56, 1374, or 1375;

(2) Any factor necessary to determine whether the entity is an S corporation under section 1361, such as the number, eligibility, and consent of shareholders and the classes of stock;

(3) Any factor necessary to determine whether the entity has properly elected to be an S corporation under section 1362 for the taxable year;

(4) Any factor necessary to determine whether and when the S corporation election of the entity has been revoked or terminated under section 1362 for the taxable year (for example, the existence and amount of subchapter C earnings and profits, and passive investment income); and

(5) Items relating to the following transactions, to the extent that a determination of such items can be made from determinations that the corporation is required to make with respect to an amount, the character of an amount, or the percentage of stock ownership of a shareholder in the corporation, for purposes of the corporation's books and records or for purposes of furnishing information to a shareholder:

- (i) Contributions to the corporation; and
- (ii) Distributions from the corporation.

(b) Factors that affect the determination of subchapter S items. The term "subchapter S item" includes the accounting practices and the legal and factual determinations that underlie the determination of the existence, amount, timing, and characterization of items of income, credit, gain, loss, deduction, etc. Examples of these determinations are: The S corporation's method of accounting, taxable year, and inventory method; whether an election was made by the corporation; whether corporate property is a capital asset, section 1231 property, or inventory; whether an item is currently deductible or must be capitalized; whether corporate activities had been engaged in with the intent to make a profit for purposes of section 183; whether the corporation qualified for the credit for increasing research activities under section 41; and whether the corporation qualified for the credit for clinical testing expenses for a rare disease or condition under section 28.

(c) Illustrations. (1) In general. This paragraph (c) illustrates the provisions of paragraph (a)(5) of this section. The determinations illustrated in this paragraph (c) that the corporation is required to make are not exhaustive; there may be additional determinations that the corporation is required to make which relate to a determination listed in paragraph (a)(5) of this section. The critical element is that the corporation is required to make a determination with respect to a matter for the purposes stated; failure by the corporation actually to make a determination (for example, because it does not maintain proper books and records) does not prevent an item from being a subchapter S item.

(2) **Contributions.** For purposes of its books and records, or for purposes of furnishing information to a shareholder, the S corporation must determine:

(i) The character of the amount received by the corporation (for example, whether it is a contribution, loan, or repayment of a loan);

(ii) The amount of money received by the corporation; and

(iii) The basis to the corporation of contributed property (including necessary preliminary determinations, such as the shareholder's basis in the contributed property).

To the extent that a determination of an item relating to a contribution can be made from these and similar determinations that the corporation is required to make, that item is a subchapter S item. To the extent that the determination requires other information, however, that item is not a subchapter S item. Such other information would include those factors used in determining whether there is recapture under section 47 by the contributing shareholder of the general business credit because of the contribution of property in circumstances in which that determination is irrelevant to the corporation.

(3) **Distributions.** For purposes of its books and records, or for purposes of furnishing information to a shareholder, the S corporation must determine:

(i) The character of the amount transferred to a shareholder (for example, whether it is a dividend, compensation, loan, or repayment of a loan);

(ii) The amount of money distributed to a shareholder;

(iii) The fair market value of property distributed to a shareholder;

(iv) The adjusted basis to the corporation of distributed property; and

(v) The character of corporation property (for example, whether an item is inventory or a capital asset).

To the extent that a determination of an item relating to a distribution can be made from these and similar determinations that the corporation is required to make, that item is a subchapter S item. To the extent that the determination requires other information, however, that item is not a subchapter S item. Such other information would include the determination of a shareholder's basis in the shareholder's stock or in the indebtedness of the S corporation to the shareholder.

(d) **Cross reference.** For the definition of subchapter S item for purposes of the windfall profit tax, see § 51.6245-1T.

(e) **Effective date.** This section shall apply to taxable years beginning after December 31, 1982.

T.D. 8122, 1/27/87.

§ 301.6301-1 Collection authority.

The taxes imposed by the internal revenue laws shall be collected by district directors of internal revenue. See, however, section 6304, relating to the collection of certain taxes under the provisions of the Tariff Act of 1930 (19 U.S.C. ch. 4).

T.D. 6119, 12/31/54, amend T.D. 6498, 10/24/60

§ 31.6302-0 Table of contents.

This section lists the captions that appear in §§ 31.6302-1 through 31.6302-3.

§ 31.6302-1 *Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.*

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- (b) Determination of status.
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- For the United States Code, by title and section;
- For the United States Statutes at Large, by volume and page number;
- For public laws, by number; and
- For Presidential documents (Proclamations, Executive orders, and Reorganization plans), by document number.

Entries in the table are taken directly from the rulemaking authority citation provided by Federal agencies in their regulations. Federal agencies are responsible for keeping these citations current and accurate. Because Federal agencies sometimes present these citations in an inconsistent manner, the table cannot be considered all-inclusive.

The portion of the table listing the United States Code citations is the most comprehensive, as these citations are entered into the table whenever they are given in the authority citations provided by the agencies. United States Statutes at Large and public law citations are carried in the table only when there are no corresponding United States Code citations given.

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 6323.....27 Part 70, 301
 6325.....26 Part 401
 27 Part 70
 6326.....26 Part 301
 27 Part 70
 6331--6343.....27 Part 70
 6343.....26 Part 301
 6401--6404.....27 Part 70
 6402.....10 Part 16
 12 Part 1730
 26 Parts 1, 301
 27 Parts 17, 25, 44, 53, 194, 270
 31 Part 285
 6404.....26 Part 301
 27 Parts 44, 53, 270, 275
 6407.....27 Part 70
 6411.....26 Parts 1, 301
 6416.....27 Parts 53, 70
 6423.....19 Part 24
 27 Parts 70, 270
 6426.....26 Part 154
 6427.....26 Part 48
 6501--6503.....27 Part 70
 6511.....27 Parts 17, 70, 194
 6513--6514.....27 Part 70
 6532.....27 Part 70
 6601--6602.....27 Part 70
 6601.....27 Parts 46, 194, 296
 6611.....27 Part 70
 6621--6622.....27 Parts 46, 70, 296
 6621.....27 Part 194
 6651.....27 Parts 24, 25, 70, 194

United States of America
Plaintiff-Appellee

Vs.

Bob A. Buford and Stephen M.
Buford

No. 88-1924

United States Court of Appeals,
Fifth Circuit

November 29, 1989

889 Federal Reporter 2nd Series
1406

Reversed and remanded

The Supreme Court has declared that states may constitutionally provide death as a penalty for especially reprehensible murders. Louisiana chose to provide that the penalty could be applied for killing a peace officer in the line of duty. There is no doubt whatsoever that Dalton Prejean committed such a crime, nor is there any longer a doubt that he was constitutionally convicted of doing so. It is time to let justice be done.

The motion for a certificate of probable cause and stay of execution is DENIED.

JOHNSON, Circuit Judge, concurs in the result, only.



UNITED STATES of America,
Plaintiff-Appellee.

v.

Bob A. BUFORD and Stephen M.
Buford, Defendants-Appellants.

No. 88-1924.

United States Court of Appeals,
Fifth Circuit.

Nov. 29, 1989.

Defendants were convicted in the United States District Court for the Northern District of Texas, A. Joe Fish, J., of conspiracy and aiding and abetting the preparation of false income tax returns, and they appealed. The Court of Appeals, Gee, Circuit Judge, held that: (1) defendant was entitled to have court conduct in camera inspection of his Individual Master File with the Internal Revenue Service (IRS) to determine whether it showed that he had filed his own tax returns for the years in question, and (2) instruction on willfulness was improper.

Reversed and remanded.

1. Witnesses ⇨337(31)

Defendant was entitled to have court conduct in camera inspection of his Individual Master File which would show whether or not he had filed tax returns for certain years where Government had offered evidence of defendant's failure to file tax returns for impeachment purposes in prosecution for conspiracy and aiding and abetting in the preparation of false tax returns for others and where defendant had presented other evidence indicating that he had filed the tax returns for the years in question.

2. Conspiracy ⇨44½

Internal Revenue ⇨5291

Government had burden of proving that defendants who were charged with conspiracy to defraud Government and aiding and abetting the preparation of false tax returns violated a legal duty which was known to them. 18 U.S.C.A. § 371; 26 U.S.C.A. § 7206(2).

3. Conspiracy ⇨44½

To sustain a conviction for conspiracy, Government must prove the requisite intent to commit the substantive offense. 18 U.S.C.A. § 371.

4. Criminal Law ⇨778(5)

Instruction in prosecution for conspiracy and aiding and abetting preparation of false income tax returns was erroneous for instructing that the Government was not required to prove that defendants knew that a particular act or failure to act was a violation of law and that there was a presumption that every person knows what the law forbids and what the law requires to be done. 18 U.S.C.A. § 371; 26 U.S.C.A. § 7206(2).

Michael Logan Ware, Fort Worth, Tex.,
for Bob Buford.

Michael Louis Minns, Houston, Tex., for
Stephen Buford.

Delonia A. Watson, Asst. U.S. Atty.,
Marvin Collins, U.S. Atty., Dallas, Tex., for
plaintiff-appellee.

Appeals from the United States District Court for the Northern District of Texas. charge to the jury was erroneous. We find error as to both issues.

Before GEE, JONES and SMITH,
Circuit Judges.

Discussion

GEE, Circuit Judge:

Facts

Stephen Buford and Charles Samuels were partners in the business of selling trust instruments and arrangements to individuals. Their clients were told to convey all of their assets to the trust and to open a checking account in its name. According to the Bufords, the clients were told not to use trust checks for personal items. According to the government, the clients paid all of their bills with trust checks.

Stephen Buford and his father, Bob Buford, assisted the clients in preparing trust returns. Personal expenses incurred by the individuals were shown as losses to their trusts. The loss generated on the trust return was then transferred to each individual's personal tax return. In this manner, each individual's personal tax liability was reduced.

Stephen and Bob Buford were each charged with 14 counts of aiding and abetting the preparation of false tax returns and one count of conspiring to defraud the United States government. Stephen was convicted on all counts and sentenced to 5 years on count I, three years each on counts II through VIII (all to run concurrently), and to five years probation on counts IX through XV. Bob Buford was convicted on the conspiracy count only and sentenced to three years probation. Both appeal, raising several issues only two of which need be discussed here: 1) whether the district court improperly denied discovery of certain Internal Revenue Service, Individual Master Files and 2) whether the

1. Discoverability of the IMF

In a pretrial order, the district court ordered the government to comply with all discovery and inspection requests required by Fed.R.Crim.P. 16, and to provide the defendants by a specified date with all *Brady* and Jencks Act material. Stephen Buford requested a copy of his Individual Master File (herein "IMF").¹ The government refused to produce the IMF on the ground that it was beyond the scope of the district court's order. The government argued that the IMF was an internal document and was, therefore, not discoverable. Fed.R.Crim.P. 16(a)(2). It argued further that the document was immaterial and irrelevant and, finally, that *Brady* did not require its production. The district court denied Stephen Buford's request, apparently relying on the government's assertion that it contained no *Brady* material.

At some later time, believing that his IMF was exculpatory, Stephen Buford requested that the district court review his IMF in camera. The court granted Buford's request but failed to make the inspection. (The IMF is written in coded form. In order to decipher the codes, an "A.D.P. code book" is needed. The court ordered the government to produce the book. The government agreed to produce the book but failed to do so. In the meantime, the trial continued to a verdict before any in camera inspection was performed.)

[1] At trial the government introduced evidence, for impeachment purposes only, that Stephen Buford had not filed his own income tax returns for the years 1980 to 1984. On cross-examination of Stephen Buford the government asked whether it was true that he had not filed tax returns

1. Individual Master File ("IMF")—Every person who files a Form 1040 has, under his social security number, a file in the IRS master computer in West Virginia. The form generated by the computer is referred to as the Individual Master File ("IMF"). The IMF consists of one or more pages of coded information for each

social security recipient and includes, primarily, a breakdown of all information relevant to the tax status of the individual concerning the filing of federal income tax forms, the payment of taxes, refunds due, filing status, number of children, dates of filings, audits, etc.

from 1980 to 1984. Buford testified that he had filed.

The government then called Marsha Boatright, an IRS records custodian, who testified that there was no record of a return filed for Stephen Buford. Ms. Boatright based her testimony on Certificates of Assessments and payments, which were admitted into evidence. Buford's attorney, in a very able cross-examination of Boatright, elicited testimony that the Certificates of Assessments were hand prepared, using information taken from the IMF. When asked whether a mistake might have occurred, she said she had never seen one.

In addition, Buford's attorney offered, through Boatright, AMDISA² reports on Stephen Buford for the years 1980 through 1984. He then elicited testimony from her that the AMDISA contained information that would not have been there unless a tax return had been filed. Her testimony made clear that the Certificates of Assessments were hand prepared and that the entry "No record of return filed" was hand written onto the certificates (by someone other than Boatright), which had been prepared specifically for the trial. Her testimony continued that the AMDISA reports came directly from the computer and contained a Dif Score.³ She also testified as to the effect of a freeze code.⁴ In the meantime, repeated requests by Buford's attorney for an in camera review of the IMF apparently fell on deaf ears.

Thus, the district court denied discovery of the IMF, yet admitted in evidence two conflicting secondary sources of the data contained in it. In addition, the court agreed to review the IMF in camera, but never did so. Stephen Buford's conviction on the 14 counts of aiding and abetting likely rests, in part, on this evidence, or the lack thereof. The jury was far more likely to believe that Buford had assisted others to evade their taxes if they thought that he had failed to pay his own. The IMF will

2. AMDISA—A computer generated "summary" of the IMF.

3. Dif Score—A discriminate information function number is assigned to each tax return filed.

show conclusively whether or not Buford filed. The district court abused its discretion in denying Stephen Buford's request for production of the IMF and in failing to perform the promised in camera inspection.

There is no authority for the district court's action. As Buford's brief puts it, "The I.R.S. has successfully used the IMF transcript and often attached a Certificate [of Assessments] to it as an official interpretation and if the issue is not objected to or uncontested used a mere certificate, but there are no reported cases allowing a certificate over objection to be utilized without the underlying official record. To the contrary, the existing case law shows the government as the force generally trying to admit the L.M.F./N.C.C. [National Computer Center] rather than the Defendant." See *United States v. Farris*, 517 F.2d 226 (7th Cir.1975) (officially certified "I.M.F. forms" are self-authenticating; IRS central data compilation introduced by government as evidence of defendant's failure to file); *United States v. Hays*, 525 F.2d 455 (7th Cir.1975) (government proved the defendant's failure to file by use of official computer data compilations) (citing *Farris*). See also Fed.R.Evid. 1004 (original required unless lost, destroyed, not obtainable, in possession of opponent, or collateral). Neither the government nor the defendant has cited a case in which the government sought to exclude an IMF report.

2. Jury Instruction

Both Stephen and Bob complain that the district court's charge to the jury impermissibly shifted the burden of proof and negated the willfulness element of the offenses charged. The court charged the jury as follows:

It is not necessary for the Government to prove that either defendant knew that a particular act or failure to act is a violation of law. Unless and until outweighed

4. Freeze Code—A code placed in the IMF indicating that a tax return, if filed, should be rejected. Thus, if a freeze code is in the IMF, an individual can file a return and the computer will, even so, show that none was filed.

by evidence in the case to the contrary, the presumption is that every person knows what the law forbids, and what the law requires to be done.

The court's charge was erroneous.

[2-4] The defendants were indicted under 18 U.S.C. section 371 for conspiring "to defraud the United States by impeding, impairing, obstructing and defeating the lawful functions of the Department of the Treasury and the collection of the revenues, to-wit; income taxes." They were also charged with substantive violations of 26 U.S.C. section 7206(2), which requires that the acts of the defendant be "willful." "Willful" has been defined as a "voluntary intentional violation of a known legal duty." *United States v. Pomponio*, 429 U.S. 10, 12, 97 S.Ct. 22, 23, 50 L.Ed.2d 12 (1976). Thus, the government had the burden of proving, as to both Stephen and Bob Buford⁵ that the legal duty violated was "known" to them. The district court's charge relieved the government of that burden and permitted the jury to presume that the defendants had the requisite knowledge. This was improper.

To the government's credit, it cites *United States v. Davis*, which they accurately assess as "militat[ing] for an automatic reversal of the instant cause." See *United States v. Davis*, 583 F.2d 190 (5th Cir.1978).

In *Davis* the court instructed the jury, in part:

"An act is done knowingly if it is done willfully and intentionally, if done voluntarily and intentionally, and not because of mistake, accident or other innocent reason or motive.

Unless outweighed by evidence to the contrary, the law presumes that every person knows what the law forbids and what the law requires to be done. Therefore, the evidence that the Defendant acted or failed to act because of ignorance of the law does not constitute a defense."

We held that these instructions were inconsistent with the element of specific intent, which requires the government to prove that the defendant voluntarily and intentionally violated a known legal duty. *Davis* at 193. After citing a series of Fifth Circuit cases on the issue, we went on to say:

Considered together, these cases require that the trial court, when instructing that specific intent is required, may not instruct that ignorance of the law is no excuse, because ignorance of the law goes to the heart of the defendant's denial of specific intent.

Id. at 194.

In the present case, the district court did not instruct the jury that they should, or could, consider the defendants' ignorance of the law. The district court's charge was erroneous. See also *United States v. Flitcraft*, 803 F.2d 184 (5th Cir.1986) (erroneous instruction concerning ignorance of the tax laws constitutes plain error).

We must therefore remand, with instructions to the district court to perform its in camera inspection of the IMF. If this reveals that Stephen actually did not file his personal tax returns in the years 1980 through 1984, no harm was done. If, on the other hand, it turns out that Stephen did file, as he says, then he must be granted the use of that evidence at the new trial which we direct.

As to the second issue, both defendants are entitled to a new trial because of the erroneous instruction.

REVERSED and REMANDED.



5. To sustain a conviction for conspiracy under section 371 the government must prove "the requisite intent to commit the substantive of-

tense." *United States v. Dahlstrom*, 713 F.2d 1423, 1429 (9th Cir.1983).

- (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 (1-1-95)

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.



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

March 19, 2004



Dear Mr.

We received your request for information under the Freedom of Information Act dated February 18, 2004 and received in this office on March 17, 2004. To constitute a valid request under the Act, certain requirements must be met. We are enclosing a copy of the procedural rules to assist you in perfecting your request. Please note item number 4.

Please send us the information needed to meet the requirements of the Act and we will try to honor your request. The 20-day period that we are allowed by law to determine whether we can comply with your request will not begin until we receive this information.

If we can be of further assistance, please contact Diana Church, Badge Number 62-11227, Disclosure Specialist, at (615) 250-5583 and/or 801 Broadway, Room 480, MDP 44, Nashville, TN 37203. Please refer to case #

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian, Badge # 62-09241
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

Making a Freedom of Information Act (FOIA) Request for Records
Maintained by the Internal Revenue Service

A Freedom of Information Act request can only be made for records which exist at the time the request is made. The Act does not require the IRS to compile information, create documents or answer questions.

The law, 5 U.S. Code 552 and the Treasury Regulations 601.702, require specific information to be included in a FOIA request for tax records. A valid request must:

1. Be made in writing and signed by the requester,
2. State that it is being made pursuant to the Freedom of Information Act,
3. Be addressed to the proper office. (For Arkansas and Tennessee residents, the address is Disclosure Officer, [REDACTED])
4. Reasonably describe the records in sufficient detail so that an IRS employee familiar with the subject area can locate the records without placing an unreasonable burden on the IRS. Requests stating "ALL RECORDS CONCERNING ME" or implying such will not be processed without clarification. FOIA requests should state the type of tax and the tax year(s) involved. Requesters usually know what function of the IRS has created or is liable to create records concerning their tax affairs. For example, the Examination Division's records include examination reports, workpapers and administrative files. Collection Division's records will exist only when the taxpayer has failed to file returns, or has failed to pay assessed taxes, penalties and interest. Criminal Investigation Division's records only exist if the taxpayer has been the subject of a criminal tax investigation. In most of these cases, the taxpayer has been contacted by a representative of the Criminal Investigation Division and has been advised of the investigation. The Appeals Office may have records if the taxpayer's return has been examined and an appeals conference has been requested or the taxpayer has petitioned the U.S. Tax Court for review of a proposed assessment. The District Counsel's office will have records if the taxpayer is involved in litigation with the IRS.
5. In the case of tax records, requesters must also establish their identity and right to the tax records by furnishing a photocopy of their driver's license which contains a photograph and signature, or by submitting a notarized statement affirming their identity. For business records requesters must also submit evidence that they are officials of the business entity with the authority to bind the business.
6. Provide an address where the notice of FOIA determination is to be sent,
7. State that copies of the records are to be provided or that inspection of the records is requested at an IRS office,
8. State a firm agreement to pay the fees for the search and duplication of the documents. Taxpayers seeking copies of their own records(see number 9 below) are provided the first 100 pages at no charge. Thereafter, the charge is \$.20 per page
9. State, under penalties of perjury, the category of the requester, and how the records will be used. Taxpayers, or their legal representatives, asking for their own tax records are in the category of "Other Requester".

Upon receipt of a FOIA request, the Disclosure Office has twenty working days to respond. Requests involving extensive records or records not physically located in the district office may cause the Disclosure Office to make a request for an extension. This request is normally made in writing.

Some or all of the requested records may be withheld by the IRS based on one or more of the exemptions provided in the ACT. The final response to the FOIA request will describe the exemptions used and will provide information on making an appeal of the denial of the records.

For more information or if you have questions concerning the Freedom of Information Act, you may call the Disclosure Office at ([REDACTED])

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. Please send me 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

DECLARATION

State of)
) SS
County of)

I, _____, hereinafter affiant, do state by first hand knowledge under the penalty of perjury, that this affiant is requesting information under the freedom of information act pursuant to affiant's account number _____

Further affiant sayeth nought.

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 who is subscribed to on the within instrument.

Witness my hand and official seal.

Signature of Notary



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

Person to Contact:
Barry (ID# 50-
Telephone Number:

Refer Reply to:
20-2004-C

Date: MAR 24 2004

Dear Mr.

This is in response to your Freedom of Information Act (FOIA) requests dated March 8, 2004. You requested the price of our Document 6209. At this time this manual is currently undergoing a possible re-classification. Therefore, until we have a final decision from Council, we will not be releasing this document to the public.

Sincerely,

A handwritten signature in black ink, appearing to be "Barry", written over a horizontal dashed line.

Barry
Program Analyst
Badge Number: 50-

Exhibit _____

ADP and IRS Information 1997



Department of the Treasury
Internal Revenue Service
Document 6209 (Rev. 1-97)
Cat. No. 614620

OFFICIAL USE ONLY

Exhibit _____

- 0 Employee Plans Master file (EPMF)
- 1 Withholding and Social Security
- 2 Individual Income Tax, Fiduciary Income Tax, Partnership return
- 3 Corporate Income Tax, 990C, 990T, 8038 Series, 8609, 8610
- 4 Excise Tax
- 5 Information Return Processing (IRP), Estate and Gift Tax
- 6 NMF
- 7 CT-1
- 8 FUTA
- 9 Mixed - Segregation by tax class not required.

(c) The fourth and fifth digits are the document codes. These are shown in this book in Section 2 by form number. Certain document codes can be applicable to more than one type form or tax. The most frequently encountered are:

- 17 Subsequent payment input by Service Center
- 18 Subsequent payment input by District Office
- 47 Examination Adjustment
- 51 Prompt/Manual/Quick Assessment
- 52 Account Transfer In
- 54 DP Adjustment
- 63 Entity changes
- 77 Form 3177

(d) The sixth, seventh and eighth digits represent the control (Julian) date. This date could be the deposit date of remittance received with a return or payment documents. A Sunday date when numbering NR returns that week, a transfer date-transfer of credits, or the current date when not otherwise specified. The control date for IDRS and Remittance Processing System (RPS) Input transactions is incremented by 400 to avoid duplicate DLNs. Subtract 400 to determine control date.

Note: When the blocking series for ELF returns has been depleted, the Julian Date may be incremented by 400 (400-788).

(e) The ninth, tenth and eleventh digits represents the block number. Complete information can be found in IRM38(43)0 for Remittance Documents and IRM3(10)(72)0 for Non-remittance Documents for blocking series. See section 4.10 for Returns Processing Adjustment Blocking Series.

(f) The twelfth and thirteenth digits are the serial numbers. The maximum number of records within a block is 100 and they are serially numbered from 00 thru 99.

(g) The fourteenth digit is the last year digit of the year the DLN was assigned. This digit is computer generated.

(6) The original DLN of the return is associated with Transaction Code 150. If there has been a Data Processing or Examination Adjustment which created a refile DLN, a letter X following the DLN will denote that the return is now filed under the refile DLN.

2 Service Center and District Location Codes (3(27)(68)0)

Location Codes are the first and second digits of the DLN. For Region Codes, see Section 11.

	Service Center/District Office	Service Center Code and Abbreviation
04	New England	08 ANSC
06	Connecticut-Rhode Island	08 ANSC
07	Atlanta Service Center	07 ATSC
08	Andover Service Center	08 ANSC
09	Kansas City Service Center	09 KCSC
11	Brooklyn, NY	19 BSC
13	Manhattan, NY	19 BSC
16	Upstate New York	08 ANSC
17	Cincinnati Service Center	17 CSC
18	Austin Service Center	18 AUSC
19	Brookhaven Service Center	19 BSC
22	New Jersey	19 BSC
23	Pennsylvania	28 PSC
28	Philadelphia Service Center	28 PSC
29	Ogden Service Center	29 OSC
31	Ohio	17 CSC
33	Southern California	89 FSC
35	Indiana	17 CSC
36	Illinois	09 KCSC
38	Michigan	17 CSC
39	Midwest	17 CSC
41	North Central	09 KCSC
43	Kansas-Missouri	09 KCSC
49	Memphis Service Center	49 MSC
52	Delaware-Maryland	28PSC
54	Virginia-West Virginia	28 PSC
58	North-South Carolina	49 MSC
58	Georgia	07 ATSC
59	North Florida	07 ATSC
62	Kentucky-Tennessee	49 MSC
65	South Florida	07 ATSC
66	Puerto Rico	28 PSC
72	Gulf Coast	49 MSC
73	Arkansas-Oklahoma	18 AUSC
74	South Texas	18 AUSC

89

EXHIBIT 11

Trans Code	DR/CR	File	Title	Valid Doc. Code	Remarks
424	I/B/E		Examination Request Indicator	77	Return referred to Examination or Appeals Division. Generates Examination opening Inventory information. Deletes record, if present, from DIF file. This transaction can also be generated for IMF when an IRP Underreported Case is referred to Exam. Generated as a result of input through PCS
425	I		Reversed TC 424	Generated Transaction	A TC 424 which was reversed.
427	B/E		Requests Returns from SERFE file	77	Requests blocks or return from the SERFE file
428	I/B/E		Examination or Appeals Case Transfer	Generated Transaction	Updates the AIMS Control Number D.O. or SC Code on unreversed TC 420 or 424. Does not post to the IMF or BMF as a transaction. Generated when an Examination or Appeals Division case transfer is entered on the AIMS terminal. Contains the DO or SC code to which the case is being transferred. CC 89 allows refund & credit elect but prevents offset.
429	I/B		Request AIMS Update from MF	77	Request that an update record reflecting current MF information be sent to the AIMS data base. Does not post to MF. Also used to release tax shelter freeze (-E).
430	Credit (PJ)	I	Estimated Tax Declaration	20, 61	Posts to the MF and establishes a tax module, if necessary, to record ES tax payment. Reversed by TC 661 or 662.
430	I		Entity Created by TC 430	Generated Transaction	Indicates that the Master File Entity was created from the posting of the ES payment. Posts to the Entity.
431			Obsolete		
432	I/A		Entity Updated by TC 430	Generated Transaction	Designates an Estimated Tax Declaration which updated Entity Data and is posted to the Entity Transaction Section. Not directly input to IRAF. Generated to IRAF as result of name change on IMF.
446	I/B E/A		Merged Transaction Indicator	Generated Transaction	Posts to the MF module which receives the merged transactions from the module which is dissolved. Contains current cycle and a list of the transactions merged in the cycle the TC 446 posts. The transactions contain a cycle prior to that of the TC 446.
450	Debit (PJ)	I/B/A	Transferee Liability Assessment		May be posted as part of 370 transaction only.

Trans Code	DR/CR	File	Title	Valid Doc. Code	Remarks
451	Credit (PJ)	I/B/A	Reversal of TC 450		Abates previously posted TC 450 in whole or in part. Posted as part of 370 transaction only.
459	B		Prior Quarter Liability, Forms 941 and 720	Generated Transaction	Records the liability of the immediately prior quarter for use in assessing FTD penalty. MCC generates the transaction when the 150 return attempts to post.
460	I/B A P		Extension of Time for Filing	All: 77 I/B 17 B: Generated Transaction P:64 B/19	Doc. Code 77: IMF-Forms 2688/4868 BMF-Forms 7004/2758/8736. Establishes a Tax Module, updates Status to 04, and updates related filing requirements except Forms 706 and 709. Applies to 1120, 1120L, 1120S, 940, 1065, 1041, 2290, 706 and 709. For installment privileges on Form 1120 and 1041 taxes, see TC 620. Blocking series 170-199 (Form 2688), indicates extension for time disapproved. Doc. Code 77, 17 AUTOMATIC EXTENSION FORM 4868 IMF ONLY. Blocking series 500-699 indicates Automatic Extension using doc code 19 without remittance disapproved. Blocking series 700-999 indicates, Automatic Extension with remittance disapproved. TC 460 can be used as secondary transaction with TC 670 requesting Automatic Extension. BMF: Generated when TC 670 with Secondary TC 460 is input to MFT 51 module. Extended due date on generated TC 460 is August 15 of the following year (i.e. RDD plus four months). Also generated when qualifying TC 620 posts to MFT 02/33/34 module with tax period 8212 or subsequent. EPMF: Invalid TC/DOC CODE
462	I/B/A/E		Correction of a TC 460 Transaction Processed In Error	77	Corrects erroneous posting of TC 460 by re-establishing the due date and restoring prior status. Zero the FRC for any MFT where: a) a TC462 reversed an erroneous TC 460 which established the tax module; and, b) the TCs 460/462 are the only TCs posted to the module; and, c) after posting the TC 462, the Status updates to "00".
463	I/B		Waiver to file on mag. tape	77	Taxpayer claims hardship to file information documents on magnetic tape. TC 463 provides a waiver for allowing submission of paper documents.

96

Exhibit

VIP decided

Transaction code and Document Locator Number Fact Sheet

Line# _____

Name _____ Account number _____

Year _____ Type S _____

T.C. _____

Description _____

Effective Date _____ Cycle Date _____ Julian Date _____

Credit _____ Debit _____

D.L.N. _____

Position of Numbers	Description	Digits	Code Meaning	6209 Page number	LEM III page number
1 & 2	District office or Service Center				
3	Tax Class				
4 & 5	Document code number				
6, 7, & 8	Julian Date		Day of year		
9, 10, & 11	Blocking number				
12 & 13	Series Number				
14	Processing year date				

DLN FOIA Date _____ Date returned from disclosure _____

Answer:

Comments:

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO
MM04-

ACCOUNT NO
NAME CONT-

04-12-2004
CYCLE-200414 (2) - week

FOR- BY- N-04092004 TYP-S-30-199912 (3) year
TIME-15:27 SRC-I MM04-03461 PROCESSED ON-103
REQUESTED TAX MODULE FOUND ON MF

1997 3

200405

LOC-8516

YEAR REMOVED-

ENT EXT CYC-

BODC-WI BODCLC-
SPOUSE SSN-

(4) PRIOR NAME CONTROL- FZ>V -
MFR-05 VAL-1 (5) RA- 6 CAF-
FYM-12 SCS-2 CRINV- (7) 130-28
RPTR- PMF- SHEL- BNKRPT- BLLC-
ACCRETION- MIN SE-
JUSTIFICATION-1 IRS EMPL- FED EMPL-

PTNL

LSTRET-1997 ME- CND-E FLC-00 200034

* TAX PERIOD 30 199912 * (8)

REASON CD- MOD EXT CYC-

FS-3 TFRP- CRINV- (17) LIEN-
TDA COPYS-3249 (17)

(9) 2/2/10 | 173 | 25707 | 2 CAF- FZ>VT -LR
TDI COPYS (10)

INT TOLERANCE- MATH INCREASE-
MF MOD BAL- 1,424.98
ACRUED INTEREST- 87.03 03152004
ACRUED PENALTY- 0.00 03152004

HISTORICAL DO-85 BWNC- BWI-
CSED-
RSED-04152003
ARDI-0 ASED-0000000

FMS- IA CD-0
(12) (13) (14)

off. date
FOIA on
ret received
on this date

0.00
(16)

(15) 200228 *cycle date*
29/2/10 | 173 | 25707-2 CD- SRC-

RET RCVD DT-06192002 (17)

PREPARE IND-0 PREPARE TIN-
TAX PER T/P- 0.00
F/C- AGI- 0.00
FOREIGN- FARM- MF P-
XRF- AEIC- 0.00
NAI- EXMPT-G1 NRGY- 0.00
LTEX- TAXABLE INC- 0.00
PENALTY SUPP-1000 SET- 0.00
MDP- TOTAL WAGES- 0.00
TOTAL INC TX- 0.00
EST TAX BASE- 0.00
PR YR BASE- 0.00
SHORT YR CD- ES FORGIVENESS %- 0
1ST SE- 0.00 2ND SE- 0.00
ACCT TYPE-
EFT-0

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

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO
MM04

ACCOUNT NO				04-12-2004			
NAME CONT-				CYCLE-200414			

				F8615-	UNAPPLD CR ELECT-		
					ES TAX PAYMENT-		0
						DIR DEP REJ RSN CD-	
				PUTI-	0	SUTI-	
				PMEI-	0	SMEI-	
				PMTI-	0	SMTI-	
(18)	425	02272002-----		200210	29277-059-20000-2		
					SOURCE-24 ORG-	PROJ-	RET R
					PTR DO-10		
(19)	570	07222002-----		200228	29210-173-25707-2		
					COLCLOS-	CYCLES-	
(20)	420	07112002-----		200229	29277-192-00000-2		
					AIMS #0000000024		
(21)	643	10182002	71,249.09-	200244	29217-294-05601-2		
					PRC-		
(22)	641	10182002	71,249.09	200248	84287-721-00005-2		
					PRC-		
(23)	280	12092002	1,424.98	200248	84287-721-00005-2		
					PRC-		
(24)	971	12212002-----		200304	68277-757-02797-2		
					XREF-		971 CD-611
					X-MFT-00 MEMO-		FTD AL
(25)	520	02242003-----		200310	89277-458-03748-3		
					COLCLOS-60 PROC-1	CLAIM-	PYMT- A
					CSED EXTENSION-P	BLLC-31	
(26)	521	06132003-----		200333	89277-619-04434-3		
					COLCLOS- PROC-9	CLAIM-9	PYMT-9 A
(27)	971	10182003-----		200344	68277-693-08493-3		
					XREF-		971 CD-611
					X-MFT-00 MEMO-		FTD AL
(28)							
MF STAT-21	12092002		1,424.98	200248			
MF STAT-58	12302002		1,424.98	200251			
MF STAT-58	10272003		1,424.98	200342			
MF STAT-22	01192004		1,424.98	200401			

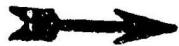
Form	Title	Doc. Code	Tax Class
W-2P	Statement for Recipients of Annuities, Pensions or Retired Pay	22	5
W-2G	Statement of Gambling Winnings	32,88	5
W-3	Transmittal of Income and Tax Statements	ANY	1
W3-SS	Transmittal of Wage and Tax Statements	32,33,34,35	1
W-4	Employee's Withholding Certificate	42	5
W-4E	Exemption from Withholding Certificate	42	5

3(27)(68)4.4 (1-1-90)

Document Codes Reference

(1) Doc. Codes with forms are as follows.

Doc Code	Forms
01	5301
03	11C,5303
04	2758,7004,SS4,8736
05	706NA,1120RIC
06	706,5306,1120DF
07	5307,1040EZ,1120FSC
08	709A,5713,1040EZ, 1120ND
09	1040A,709,5309,1120A,990EZ
10	1040A,1120,1120X,4625,5310
11	1040,1120,CT-1,5329,W-2 (Guam),1120L,1120M,1040X
12	1040,5329,W-2 (Virgin Islands),1120REIT
13	730,1120PC
14	3177,3177A,TYD-14
15	Passport
16	1120S, Green Card
17	1962, 2287, 2758, 4428, 3731, 3967, 3244, 3446, 3552, 4188, TY-26, TY-18, 4839, 4540, 809, 4868, 4843, 4084, 4085, 4086, 4482, 4602, 4604, 4732, 4733, 4779, 4868, 4960, 4961, RSC137, TYD69,4188SP,4428P, 5541, 1041ES,8210
18	809,3244,4840,4907,3244A,TYD69,8210
19	RPSII processed forms
20	1040ES,1120POL,720,1120S-K1 (for TY81 and earlier)
21	1040,W-2,5329
22	1040,W-2P,5329
23	8697
24	2424
25	1042 1042 Tax Period 8512 and later
26	1040SS
27	1040PR
28	5498
29	8804,8813
30	6209,6222,720,5500-P,W-3
31	5263,3912,W-3,5500-EZ
32	W-2G, W-3SS
33	1042 (Tax Period 8512 and prior), W-3SS, 5500-G
34	W-3SS
35	941(mag. tape),5330,W-3SS
36	6248,5500 Sch. B,941E(mag. tape)



Form	Title	Doc. Code	Tax Class
990EZ	Short Form—Return of Organization Exempt from Income Tax	09	4

(f) Federal Revenue Forms, 1000 Series.



Form	Title	Doc. Code	Tax Class
1040	U.S. Individual Income Tax Return (Other than Full Paid)	11,12,21,22	2
1040A	U.S. Individual Income Tax Return Other than Full Paid	09	2
1040C	U.S. Departing Alien Income Tax Return	10	2
1040ES	U.S. Declaration of Estimated Income Tax for Individuals	61	2
1040EZ	U.S. Individual Income Tax Return Other than Full Paid	20	2
1040NR PSC only	U.S. Non-resident Alien Income Tax Return Non-effectively Connected Income	07	2
1040PR PSC Only	U.S. Self Employment Tax Return Puerto Rico	08	2
1040SS PSC Only	U.S. Self Employment Tax Return, Virgin Islands, Guam, American Samoa (PSC only)	72	2
1040X	Amended U.S. Individual Income Tax Return With remittance or original return needed	73	2
1040SS NMI	U.S. Self Employment Tax Return, Northern Marianas Islands	27	2
1041	U.S. Fiduciary Income Tax Return (For estates and trusts)	25	2
1041	U.S. Fiduciary Income Tax Return Magnetic Tape (Currently not used)	44	2
1041A	Trust Accumulation of Charitable etc., Amounts	36	4
1041ES	Payment Voucher, Estimated Tax	81	2
1041-K1	Beneficiary's Share of Income, Credits, Deductions, Etc. (See Form 5227)	17,19	5
1041PF	U.S. Fiduciary Tax Return (Short Form)	66	2
1041S	U.S. Annual Return of Income Tax to be Paid at Source	46	1
1042S	Income Subject to Withholding Under Chapter 3, IRC	25	6
1065	U.S. Partnership Return of Income	66	2
1065-K1	Partner's Share of Income, Credits, Deductions, Etc.	65	5
1066	U.S. Real Estate Mortgage Investment Conduit Income Tax Return	65	3, 6

37(27)(68)0 ADP Systems Code

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3(27)(68)2.3 (1-1-90)
Employment Codes (BMF)

Employment Codes (EC) identify employers who are other than normal business employers.

EC	Numeric Equivalent (Internal Use Only)	Employer
F	6	Federal Employer
G	7	State or local government agency, subject to withholding tax only. Utilize with 941 filing requirement 4.
M	4	Maritime Industry Credit Freeze on refunds and offset out for Form 941 pending receipt of supplemental return recording wages paid to employees at sea.
S	2	Foreign Subsidiary having filed Form 2032 to extend SS coverage to certain employees of the subsidiary.
W	3	Non-profit organization exempt from FUTA (Form 940) withholding. (Sec. 501(c)(3)IRC)
—	9	Deletes employment codes.
C	8	Form 8274 filed by church or church controlled organization to elect not to pay FICA tax for their employees.
T	1	State or local government agency that has entered into a 218 agreement with SSA.

3(27)(68)2.4 (1-1-90)
Filing Status Codes (IMF)

(1) Filing Status Codes (FSC) identify the current marital filing status of the individual taxpayer.

FSC	Filing Status
0	Single, filing declaration of estimated income tax
1	Single
2	Married, filing joint return
3	Married, filing separate returns, spouse exemption not claimed
4	Unmarried, head of household
5	Surviving widow or widower with dependent child
6	Married filing separately claiming spouse as exemption
7	Head of household, with an unmarried child's name listed on return, but no exemption claimed. (Processed same as FSC 4). Also married filing a declaration of estimated income tax.

3(27)(68)2.5 (1-1-90)
Filing Requirement Codes (FRC); Mail Filing Requirements

(1) FR Codes are posted to the Entity Section of the Master File to identify the types of returns a taxpayer must file. They are also used to identify the types of forms the IRS must mail to the taxpayer. These codes are also known as Mail Filing Requirements (MFR). Following is a BMF-IMF-EPMF-IRAF list and compatibility chart for quick reference: *1120 Return cannot be input to module with 942, 1041, 1120, 990PF, 990C, 990, 990T, 4720 or 1065 FR; 942, 1041 Return cannot be input to module with 1120 or 1065 FR; 1065 Return cannot be input to module with 942, 1041 or 1120FR.

FR	File	Form Numbers
00	BMF	941, 1120, 990 (Return not required)
0	BMF	All (Return not required)
01	BMF	941, 1120/1120A, 990
1	BMF	942*, 720, CT-1, 990C, 990T, 5227, 990PF, 990, 1042
1	BMF	1065*, 1041*
1	BMF	943, 940
1	BMF	11C, 730, 4720, 2290, 1120PC
1	BMF	1042, 1066
02	BMF	941 (EC-F EMP)
02	BMF	1120S
02	BMF	990 Not required to file
2	BMF	CT-1, 990C, 990T, (401(a)), 5227
03	BMF	941 no longer liable—Final Return Current Calendar Year
03	BMF	1120L
03	BMF	990 Group Return
04	BMF	941E, 1120M, 1120PC
4	BMF	720 Casual Filer, 990BL
04	BMF	Form 990 BL
06	BMF	941SS
06	BMF	990 (church)
6	BMF	720 w Abstract # 50 or 56
06	BMF	1120F
7	BMF	942PR (Location code 86601)
07	BMF	941PR (Location code 86601)
7	BMF	940PR (Location code 86601)
07	BMF	1120 (6 months extended)
07	BMF	990 (Government 501(c)(1))
7	BMF	943PR (Location code 86601)
7	BMF	720 (Windfall Profit Tax—Abstract # 52)
8	BMF	Inactive (except 941 and 1120)
88	BMF	Inactive 941, 1120, 990
09	BMF	941M Criminal Filer
9	BMF	720M
09	BMF	1120 POL
10	BMF	1120H
10	BMF	941M Civil Filer
11	BMF	1120ND
11	BMF	941
12	BMF	941
13	BMF	Form 990 Religious not required to file
13	BMF	941
14	BMF	941
14	BMF	1120 (Subsidiary)—TC 590 CC14 posted
15	BMF	1120FSC
16	BMF	1120 DF
17	BMF	1120 RIC
18	BMF	1120 REIT
19	BMF	1120 personal service corp.
51	BMF	941 no longer liable—Final Return Last Calendar Year
88	BMF	Inactive (941, 1120, 940)
00	IMF	1040ES only—No 1040
01	IMF	1040 Not required
02	IMF	1040A and 1040EZ
03	IMF	1040 principal non-business (Sch. A, B)
04	IMF	1040 full non-business (Sch. A, B, D, E)
05	IMF	1040 business (Sch. A, B, D, E, C, F)
06	IMF	1040SS
07	IMF	1040PR
08	IMF	INACTIVE
09	IMF	1040NR
10	IMF	Sched. F Bus. with Farm Package
11	IMF	IMF Child Care Credit Present
12	IMF	Sch. R/RP Present



Exhibit _____

37(27)(68)0 ADP Systems Code

3(27)(68)1

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3(27)(68)(12)

Transaction Codes

General 3(27)(68)(12).1
Prejournalized Versus Post-Journalized 3(27)(68)(12).2
Structure 3(27)(68)(12).3
Current Transaction Codes 3(27)(68)(12).4
Transaction Codes 000-119 3(27)(68)(12).5

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.

Exhibit

Station Name: ATL02?

Date: 4/12/2004 Time: 1:28:58 PM

IRPTRN' 000000 * (TY2002) IRMF ON LINE TRANSCRIPT SYSTEM *
TIN- TIN TYPE AND VALIDITY- 0 DOCUMENT CODE- 00 PAGE 0001 OF 0001
DOCUMENT TYPE: 1099-INT ON FILE DATE: 03-18-2003 ORIGINAL SUBMISSION
PAYEE ENTITY DATA: SSN 540-76-4450 -- VALID SSN

STATE: ZIP:

PYR'S SUBMISSION DLN: 17569430380003
TRNS CNTL CD: 17143 PYR OFC CD: N/A
SUBMITTED TO: IRS ON: TAPE
NO SECOND NOTICE

ACCOUNT NUMBER: N/A
PAYER ENTITY DATA: EIN 38-1798424
U S TREASURY DEPARTMENT - INTERNAL REVEN
UE SERVICE IMF
1111 CONSTITUTION AVE NW
WASHINGTON DC 20224

INTEREST.....\$24+

TY2002 IRMF DATA IS NOW AVAILABLE ON LINE

IRPTRW0

*** (TY1995) IRMF ON LINE TRANSCRIPT SYSTEM SUMMARY ***

TIN-	TIN TYPE AND VALIDITY- 0	DOCUMENT CODE- 00	2 DOCS
GROUP	AMOUNT	GROUP	AMOUNT
MTG INT PD.....\$7,2			

ENTER=PAYE(E),PAYE(R),(O)NLINE,(W)HITE OUT,IRPO(L),HARD(C)OPY OR (H)ELP

4.4.23.3 (02-08-1999)

Establishment Process

1. The establishment process is dependent on whether the account is being established on:
 - Master File (MF)
 - Non-Master File (NMF)
 - Partnership Control System (PCS)

4.4.23.3.1 (02-08-1999)

Master File

1. Before the TC 424 is sent to Master File, the TIN and Name Control are validated against the LAP/NAP to ensure that the TIN exists at Master File and that the Name Control matches the TIN. If it doesn't match you will receive a terminal reject.
2. If it does match, the TC 424 is sent to Master File. Another check is performed and if all the data matches and a return has been filed, Master File sends an opening record back to AIMS with additional information such as activity code, statute date, delinquent return indicator, etc. If a return has not been filed and a Push Code is present, the TC 424 will remain at Master File and an opening record will be generated when a return posts. After AIMS receives the opening record, the data base becomes fully established and AIMS sends a TC 420 back to Master File.
3. If a TC 424 posts to a tax period that is in TDI Status 03, a TC 595 will automatically be generated.

4.4.23.3.1.1 (02-08-1999)

IMF Only

1. Before the TC 424 is sent to Master File, the LAP/NAP is accessed to ensure that there is a Name Line and Tax Module present at Master File. If there isn't, you will receive a terminal reject. If a push code is used, the tax module part of the check is bypassed.

4.4.23.3.2 (02-08-1999)

Non-Master File

1. The input of a Non-Master File establishment immediately establishes a full record on AIMS and generates a Form 5546 and labels if requested.
2. In order to have the DLN on the Form 5546 when it is generated, the DLN from the transcript must be entered in Item 58 on Form 5349 at the same time the Form 5354, CC AMNON is entered.

4.4.23.3.2.1 (02-08-1999)

Reasons for NMF

1. The function responsible for the assessment can be determined as follows:
 - A. **AUTOMATED SUBSTITUTE FOR RETURN (ASFR)** -- Assessment will have a TC 290 assessment with DLN blocking series (9th - 11th digits) of 540-549 or 640-649 on the transcript of account.
 - B. **UNDERREPORTER (AUR)** -- Assessment will be A TC 290 preceded by a TC 922.
 - C. **SERVICE CENTER & AREA (DISTRICT) OFFICE EXAMINATION** -- Assessment will be a TC 300. A prior TC 420 will reflect a ten digit AIMS Number (AIMS-NUM>XXXXXXXXXX) by the DLN. The 4th -7th digits identify the organization code. Service Center organization codes are 5000-5999 and Area Office 1000-2999. The last two digits of the AIMS control number reflect the closing Service Center/Area Office code identifying the location where the case was worked.
 - D. **APPEALS OFFICE** -- Assessment will be a TC 300 preceded by another TC 300 for zero closing the case from Examination to Appeals. Next to the second TC 300 (Appeal assessment) will be a three digit Appeal Office code (APPL-CD>1XX or 2XX) identifying the office that closed the case. See Doc. 6209 for Appeal Office codes.

4.13.2.2.1 (10-01-2000)

Routing Requests

1. After determination is made on what function originated the assessment generating the reconsideration request follow the procedures below:
 - A. ASFR assessment -- route to the originating ASFR unit in the appropriate Service Center to be worked. See Exhibit 4.13.7-1 for addresses.
 - B. AUR assessment -- route phone calls to the AUR Toll-free number 1-800-829-7157. If correspondence is received route to originating AUR function to be worked.
 - C. Appeals assessment -- If a phone request is generating from an Appeals assessment refer taxpayer to an Appeals Customer Service Representative. The toll-free number is 1(877) 457-5055. If correspondence is received, forward to the originating Appeals Office. See Doc. 6209 for addresses.
 - D. Service Center or Area Office Examination -- See 2.3 Role of a Contact Employee for procedures.
2. TAS (Taxpayer Advocate Service) cases are an exception to the above procedures.
 - A. Refer cases that meet TAS (Taxpayer Advocate Service) criteria to TAS for initial contact.
 - B. TAS will forward the case to the appropriate function according to guidelines in IRM 13.1.7, TAS Case Processing Guidelines.

4.13.2.3 (10-01-2000)

Role of a Contact Employee



Trans Code	DR/CR	File	Title	Valid Doc. Code	Remarks
494		B/I	Notice of Deficiency	77	Indicates that a Statutory Notice of Deficiency (90-day) was issued. Issuing Organization Code two position numeric only (70, 71, 84). CC: STN 90
495		B/I	Closure of TC 494 or correction of TC 494 processed in error	77	Closure of Notice of Deficiency or Notice of Deficiency processed in error. Issuing Organization Code two position numeric only (70, 71, 84). CC: STN 90
500		I	Military Deferment	77	Suspends Collections Status Expiration Date. New expiration date is input with TC 500. Hold is established if tax module balance is debit; hold is released when balance becomes zero or credit and when TC 502 or 550 is posted. Generates TC 340 Valid CC 51-53. See Section 11 Collection, for appropriate closing codes.
502		I	Correction of TC 500 Processed in Error	77	Corrects an erroneously posted military deferment and restores the original Collection Statute Expiration Date. Releases Hold established by TC 500. TC 502 does not release the interest and/or penalty freezes. A TC 290 must be input with the appropriate TC.
510		I	Releases Invalid SSN Freeze on Refunds	77	Releases Invalid SSN freeze indefinitely, as long as SSN/Name Control remain unchanged.
520		I/B/A	IRS Litigation Instituted	77 or Generated Transaction	Freeze is released by TC 521 or 522. Some CCs suspend CSED. See Section 11.08(6). For IMF only an optional CSED TIN indicator (P) Primary, (S) Secondary or (B) Both can be used to identify which taxpayer the extension applies to. (See Section 11 for appropriate closing codes)
521		I/B/A	Reversal of 520	77	Records reversal of a previously posted TC 520. If TC 520 posted prior to cycle 8624, TC 550 must be input to extend the CSED. Refer to section 11 for specific CC reversal activity.
522		I/B/A	Correction of 520 Processed in Error	77	Indicates and reverses previously posted 520's as an error, and causes Closing Codes, if 70-89, to be updated to zeros.
524			Collateral Agreement Pending		Indicates that a Collateral Agreement is pending. Suspends Collection action (IDRS only—Does not post to master file)

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. Please send me all "Source Documents" that the IRS relied upon to create a Substitute for Return (SFR) which was created and input into this requester's Individual Master File (See Exhibit A) that pertains to this requester.

Dated:

Respectfully,

,Requester



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

March 29, 2004

Dear Ms.

This letter is in response to your Freedom of Information Act request dated March 6, 2004 and received in our office on March 18, 2004 seeking a copy of the Substitute for Return (SFR) for tax years 1995 through 2002. Enclosed are the documents for 1998 through 2001, 4 pages.

We found no responsive documents for 1996, 1997 and 2002. There was an SFR prepared for 1995, but it has been destroyed. Enclosed is notice 393 explaining your appeal rights.

If you have any questions, please contact Diana Church, Badge # 62-11227, Disclosure Specialist, of my staff at (615) 250-5583 or 801 Broadway, MDP 44, Nashville, TN 37203. Your case number is [REDACTED].

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian (Badge # 62-09241)
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

1040

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return

1999

IRS Use Only—Do not write or staple in this space

For the year Jan. 1–Dec. 31, 1999, or other tax year beginning

1999, ending

OMB No. 1545-0074

Label

Instructions page 18.)

Use the IRS e-file. Otherwise, use print type.

Confidential Election Campaign (see page 18.)

Filing Status

Check only the box.

Exemptions

more than six dependents, see page 19.

Income

Attach Copy B of your forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 20.

Enclose, but do not staple, any payment. Also, please use Form 1040-V.

Adjusted Gross Income

LABEL HERE	Your first name and initial	Last name	Your social security number
	If a joint return, spouse's first name and initial	Last name	Spouse's social security number
	Home address (number and street). If you have a P.O. box, see page 18.		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 18.			

IMPORTANT!
You must enter your SSN(s) above.

Yes	No	Note. Checking "Yes" will not change your tax or reduce your refund.
<input type="checkbox"/>	<input type="checkbox"/>	

Do you want \$3 to go to this fund? 3
If a joint return, does your spouse want \$3 to go to this fund?

- 1 Single
- 2 Married filing joint return (even if only one had income)
- 3 Married filing separate return. Enter spouse's social security no. above and full name here. ▶ _____
- 4 Head of household (with qualifying person). (See page 18.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶ _____
- 5 Qualifying widow(er) with dependent child (year spouse died ▶ 19 ____). (See page 18.)

6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.

b Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 19)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

d Total number of exemptions claimed

No. of boxes checked on 6a and 6b _____
No. of your children on 6c who:
• lived with you _____
• did not live with you due to divorce or separation (see page 19) _____
Dependents on 6c not entered above _____
Add numbers entered on lines above ▶

- 7 Wages, salaries, tips, etc. Attach Form(s) W-2.
- 8a Taxable interest. Attach Schedule B if required
- b Tax-exempt interest. DO NOT include on line 8a. 8b _____
- 9 Ordinary dividends. Attach Schedule B if required
- 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 21)
- 11 Alimony received
- 12 Business income or (loss). Attach Schedule C or C-EZ
- 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here
- 14 Other gains or (losses). Attach Form 4797
- 15a Total IRA distributions 15a _____ b Taxable amount (see page 22) 15b _____
- 16a Total pensions and annuities 16a _____ b Taxable amount (see page 22) 16b _____
- 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E
- 18 Farm income or (loss). Attach Schedule F
- 19 Unemployment compensation
- 20a Social security benefits 20a _____ b Taxable amount (see page 24) 20b _____
- 21 Other income. List type and amount (see page 24) _____
- 22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶ 22 _____

- 23 IRA deduction (see page 26) 23 _____
- 24 Student loan interest deduction (see page 26) 24 _____
- 25 Medical savings account deduction. Attach Form 8853 25 _____
- 26 Moving expenses. Attach Form 3903 26 _____
- 27 One-half of self-employment tax. Attach Schedule SE 27 _____
- 28 Self-employed health insurance deduction (see page 28) 28 _____
- 29 Keogh and self-employed SEP and SIMPLE plans 29 _____
- 30 Penalty on early withdrawal of savings 30 _____
- 31a Alimony paid b Recipient's SSN ▶ _____ 31a _____
- 32 Add lines 23 through 31a 108 32 _____
- 33 Subtract line 32 from line 22. This is your adjusted gross income ▶ 33 _____

K

Tax and Credits

Standard Deduction for Most People

Single: \$4,300
Head of household: \$6,350
Married filing jointly or Qualifying widow(er): \$7,200
Married filing separately: \$3,600

34 Amount from line 33 (adjusted gross income)
35a Check if: [] You were 65 or older, [] Blind; [] Spouse was 65 or older, [] Blind.
36 Enter your itemized deductions from Schedule A, line 28, OR standard deduction shown on the left.
37 Subtract line 36 from line 34
38 If line 34 is \$94,975 or less, multiply \$2,750 by the total number of exemptions claimed on line 6d.
39 Taxable income. Subtract line 38 from line 37.
40 Tax (see page 31). Check if any tax is from a [] Form(s) 8814 b [] Form 4972
41 Credit for child and dependent care expenses. Attach Form 2441
42 Credit for the elderly or the disabled. Attach Schedule R
43 Child tax credit (see page 33)
44 Education credits. Attach Form 8863
45 Adoption credit. Attach Form 8839
46 Foreign tax credit. Attach Form 1116 if required
47 Other. Check if from a [] Form 3800 b [] Form 8396 c [] Form 8801 d [] Form (specify)
48 Add lines 41 through 47. These are your total credits
49 Subtract line 48 from line 40. If line 48 is more than line 40, enter -0-

Other Taxes

50 Self-employment tax. Attach Schedule SE
51 Alternative minimum tax. Attach Form 6251
52 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137
53 Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required
54 Advance earned income credit payments from Form(s) W-2
55 Household employment taxes. Attach Schedule H
56 Add lines 49 through 55. This is your total tax

Payments

57 Federal income tax withheld from Forms W-2 and 1099
58 1999 estimated tax payments and amount applied from 1998 return
59a Earned income credit. Attach Sch. EIC if you have a qualifying child
b Nontaxable earned income: amount and type
60 Additional child tax credit. Attach Form 8812
61 Amount paid with request for extension to file (see page 48)
62 Excess social security and RRTA tax withheld (see page 48)
63 Other payments. Check if from a [] Form 2439 b [] Form 4136
64 Add lines 57, 58, 59a, and 60 through 63. These are your total payments

Refund

Have it directly deposited! See page 48 and fill in 66b, 66c, and 66d.

65 If line 64 is more than line 56, subtract line 56 from line 64. This is the amount you OVERPAID
66a Amount of line 65 you want REFUNDED TO YOU
b Routing number
c Type: [] Checking [] Savings
d Account number
67 Amount of line 65 you want APPLIED TO YOUR 2000 ESTIMATED TAX

Amount You Owe

68 If line 56 is more than line 64, subtract line 64 from line 56. This is the AMOUNT YOU OWE. For details on how to pay, see page 49
69 Estimated tax penalty. Also include on line 68

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return? See page 18. Keep a copy for your records.

Your signature, Date, Your occupation, Daytime telephone number (optional)
Spouse's signature. If a joint return, BOTH must sign. Date, Spouse's occupation

Paid Preparer's Use Only

Preparer's signature, Date, Check if self-employed []
Firm's name (or yours if self-employed) and address, EIN, ZIP code

(A) that to the best of his knowledge the report is complete and accurate, and

(B) the requirements of section 412(c) (relating to reasonable actuarial assumptions) have been complied with,

(4) such other information as may be necessary to fully and fairly disclose the actuarial position of the plan, and
 (5) such other information regarding the plan as the Secretary may by regulations require.

(c) Time and manner of filing.

The actuarial report and statement required by this section shall be filed at the time and in the manner provided by regulations prescribed by the Secretary.

(d) Cross reference.

For coordination between the Department of the Treasury and the Department of Labor with respect to the report required to be filed under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6059, effective 2/1/77.

In '74, P.L. 93-406, Sec. 1033(a), added Code Sec. 6059, effective 9/2/74 or other date as specified in Sec. 1017 of this Act, reproduced in note following Code Sec. 401.

SUBPART F.—INFORMATION CONCERNING INCOME TAX RETURN PREPARERS

Sec.

6060. Information returns of income tax return preparers.

Sec. 6060. Information returns of income tax return preparers.

(a) General rule.

Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

(b) Alternative reporting.

In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

(c) Return period defined.

For purposes of subsection (a), the term "return period" means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.

6063. Signing of partnership returns.

6064. Signature presumed authentic.

6065. Verification of returns.

Sec. 6061. Signing of returns and other documents.

Except as otherwise provided by sections 6062 and 6063, any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in Code Sec. 6061, effective 2/1/77.

Sec. 6062. Signing of corporation returns.

The return of a corporation with respect to income shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary pursuant to the provisions of section 6012(b)(3), such fiduciary shall sign the return. The fact that an individual's name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

Sec. 6063. Signing of partnership returns.

The return of a partnership made under section 6031 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

Sec. 6064. Signature presumed authentic.

The fact that an individual's name is signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

Sec. 6065. Verification of returns.

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

In '76, P.L. 94-455, Sec. 1906(a)(6), deleted subsec. (b) and deleted the heading of subsec. (a), effective 2/1/77.

Prior to deletion subsec. (b) read as follows:

"(b) Oath.

"The Secretary or his delegate may by regulations require that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be verified by an oath. This subsection shall not apply to returns and declarations with respect to income taxes made by individuals."

Prior to deletion the heading of subsec. (a) read as follows:

"(a) Penalties of perjury."

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in Code Sec. 6065, effective 2/1/77.

PART V.—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

Sec.

6071. Time for filing returns and other documents.

6072. Time for filing income tax returns.

110 6073. Repealed [Time for filing declarations of estimated income tax by individuals.]

In '76, P.L. 94-455, Sec. 1203(e), added Code Sec. 6060 as subpart F, effective for documents prepared after 12/31/76.

AUTHORIZATION FOR RELEASE OF INFORMATION

1. **TO:** U.S. Department of the Treasury, Financial Management Service (FMS)
FROM:

Name:	Mailing Address (include street address, p.o. box, suite no., city, state, zip code):	
Social Security Number or Employer Identification Number:	Telephone No.:	Fax No.

2. I authorize the FMS, its employees, agents, and contractors, to disclose to the following person:

REPRESENTATIVE:

Name of Individual:	Mailing Address (include street address, p.o. box, suite no., city, state, zip code):	
Company Name [optional]:	Telephone No.:	Fax No.

any and all information related to a debt owed by me to the United States Government, to a State, or any debt enforced by a State, including child support obligations, and/or any payments made or due to me by a Federal agency, and/or any tax return information disclosed to FMS by the Internal Revenue Service in order to conduct tax refund offset under 26 U.S.C. §§ 6402(c), (d), or (e). Tax return information is defined in 26 U.S.C. § 6103(b). Information includes, but is not limited to, correspondence and other information related to my debt(s) or payment(s), including my tax refund payment(s).

3. FMS, its employees, agents, and contractors, are not required to inform me of disclosures made under this authorization.
4. This authorization will be valid for 6 months from the date of signing, unless sooner revoked by me in writing and the revocation is received and processed by FMS at this address: **Supervisor, TOP Help Desk, P.O. Box 1686, Birmingham, Alabama 35201-1686.**
5. A photocopy or facsimile copy of this signed authorization has the same force and effect as an original.

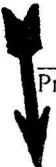
The person named in paragraph 1 must sign below. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form.

Signature of Person Authorizing Disclosure

Date

Print Name of Person Authorizing Disclosure

Print Title of Person Authorizing Disclosure



Privacy Act Statement: Collection of this information is authorized by 5 U.S.C. §§ 552a, 26 U.S.C. §6402, 31 U.S.C. §§ 3716, 3720A and 7701(c). This information will be used to identify your debts submitted to the Treasury Offset Program for collection by Federal and State agencies and your Federal payments. This information will be disclosed to persons as authorized by you. Additional disclosures of this information may be to Federal and State agencies collecting your debt or issuing payments to you. The purpose of the additional disclosures will be to verify the accuracy of the information provided to FMS and to assist such agencies in collecting your debt. Where the taxpayer identification number is your Social Security Number, collection of this information is required by 31 U.S.C. § 7701(e). If you fail to furnish the information requested on this form, including your Social Security Number, FMS will not disclose to third parties information concerning your debts submitted to the Treasury Offset Program for collection by Federal and State agencies or your Federal payments.

LII

legal information institute

US CODE COLLECTION



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[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART II](#) > [Subpart D](#) > **Sec. 6020.**

[Next](#)



Sec. 6020. - Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes

Search this title:

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- [Parallel authorities \(CFR\)](#)
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Parallel authorities for 26 USC 6020 (from CFR)

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

- [27 CFR part 53](#)
- [27 CFR part 70](#)

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wife. see §§1.6013-1 to 1.6013-7, inclusive, of this chapter (Income Tax Regulations).

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7670, 45 FR 6932, Jan. 31, 1980]

§ 301.6014-1 Income tax return—tax not computed by taxpayer.

For provisions relating to the election not to show on an income tax return the amount of tax due in connection therewith, see §§1.6014-1 and 1.6014-2 of this chapter (Income Tax Regulations).

[T.D. 7102, 36 FR 5498, Mar. 24, 1971]

§ 301.6015-1 Declaration of estimated income tax by individuals.

For provisions relating to requirements of declarations of estimated income tax by individuals, see §§1.6015(a)-1 through 1.6015(j)-1 of this chapter (Income Tax Regulations).

[T.D. 7427, 41 FR 34033, Aug. 12, 1976]

§ 301.6016-1 Declarations of estimated income tax by corporations.

For provisions concerning the requirement of declarations of estimated income tax by corporations, see §§1.6016-1 to 1.6016-4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6017-1 Self-employment tax returns.

For provisions relating to the requirement of self-employment tax returns, see §1.6017-1 of this chapter (Income Tax Regulations).

Estate and Gift Tax Returns

§ 301.6018-1 Estate tax returns.

For provisions relating to requirement of estate tax returns, see §§20.6018-1 to 20.6018-4, inclusive, of this chapter (Estate Tax Regulations).

§ 301.6019-1 Gift tax returns.

For provisions relating to requirement of gift tax returns, see §§25.6019-1 to 25.6019-4, inclusive, of this chapter (Gift Tax Regulations).

Miscellaneous Provisions

§ 301.6020-1 Returns prepared or executed by district directors or other internal revenue officers.

(a) *Preparation of returns*—(1) *In general.* If any person required by the Code or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the district director or other authorized internal revenue officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the district director as the return of such person.

(2) *Responsibility of person for whom return is prepared.* A person for whom a return is prepared in accordance with subparagraph (1) of this paragraph shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by him.

(b) *Execution of returns*—(1) *In general.* If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) *Status of returns.* Any return made in accordance with subparagraph (1) of this paragraph and subscribed by the district director or other authorized internal revenue officer or employee shall be prima facie good and sufficient for all legal purposes.

(3) *Deficiency procedures.* For deficiency procedures in the case of income, estate, and gift taxes, see sections 6211 to 6216, inclusive, and §§301.6211-1 to 301.6215-1, inclusive.

(c) *Cross references.* (1) For provisions that a return executed by a district director or other authorized internal revenue officer or employee will not start the running of the period of limitations

§ 301.6021-1

on assessment and collection, see section 6501(b)(3) and paragraph (c) of § 301.6501(b)-1.

(2) For additions to the tax and additional amounts for failure to file returns, see section 6651 and § 301.6651-1, and section 6652 and § 301.6652-1, respectively.

(3) For additions to the tax for failure to pay tax, see section 6653 and § 301.6653-1.

(4) For criminal penalties for willful failure to make returns, see sections 7201, 7202, and 7203.

(5) For criminal penalties for willfully making false or fraudulent returns, see sections 7206 and 7207.

(6) For authority to examine books and witnesses, see section 7602 and § 301.7602-1.

§ 301.6021-1 Listing by district directors of taxable objects owned by nonresidents of internal revenue districts.

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the district director, as required by law or by regulations prescribed pursuant to law, the district director, or other authorized internal revenue officer or employee, shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary, and shall make lists of the same according to the forms prescribed. Such lists, being subscribed by the district director or other authorized internal revenue officer or employee, shall be sufficient lists of such articles for all purposes.

INFORMATION RETURNS

Information Concerning Persons Subject to Special Provisions

§ 301.6031(a)-1 Return of partnership income.

For provisions relating to the requirement of returns of partnership income, see § 1.6031(a)-1 of this chapter.

[T.D. 8841, 64 FR 61502, Nov. 12, 1999]

26 CFR Ch. I (4-1-03 Edition)

§ 301.6032-1 Returns of banks with respect to common trust funds.

For provisions relating to requirement of returns of banks with respect to common trust funds, see § 1.6032-1 of this chapter (Income Tax Regulations).

§ 301.6033-1 Returns by exempt organizations.

For provisions relating to the requirement of returns by exempt organizations, see § 1.6033-1 of this chapter (Income Tax Regulations).

§ 301.6034-1 Returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c).

For provisions relating to the requirement of returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c), see § 1.6034-1 of this chapter (Income Tax Regulations).

[T.D. 8026, 50 FR 20757, May 20, 1985]

§ 301.6035-1 Returns of officers, directors, and shareholders of foreign personal holding companies.

For provisions relating to the requirement of returns by officers, directors, and shareholders of foreign personal holding companies, see §§ 1.6035-1 to 1.6035-3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6036-1 Notice required of executor or of receiver or other like fiduciary.

(a) *Receivers and other like fiduciaries*—(1) *Exemption for bankruptcy proceedings.* (i) A bankruptcy trustee, debtor in possession or other like fiduciary in a bankruptcy proceeding is not required by this section to give notice of appointment, qualification or authorization to act to the Secretary or his delegate. (However, see the notice requirements under the Bankruptcy Rules.)

(ii) Paragraph (a)(1)(i) of this section is effective for appointments, qualifications and authorizations to act made on or after January 29, 1988. For appointments, qualifications and authorizations to act made before the foregoing date, 26 CFR 301.6036-1 (a)(1) and (4)(i) (revised as of April 1, 1986) apply.

5.1.11.9 (05-27-1999)
IRC 6020(b) Authority



1. The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):
 - A. Form 940, Employer's Annual Federal Unemployment Tax Return
 - B. Form 941, Employer's Quarterly Federal Tax Return
 - C. Form 942, Employer's Quarterly Tax Return for Household Employees
 - D. Form 943, Employer's Annual Tax Return for Agricultural Employees
 - E. Form 720, Quarterly Federal Excise Tax Return
 - F. Form 2290, Heavy Vehicle Use Tax Return
 - G. Form CT-1, Employer's Annual Railroad Retirement Tax Return
 - H. Form 1065, U.S. Partnership Return of Income
2. The following are authorized to execute returns under IRC 6020(b):
 - A. Revenue officers.
 - B. Automated Collection System (ACS) and Collection Support function (CSf) managers GS-9 and above.

5.1.11.9.1 (05-27-1999)
Taxpayer Contact

1. When the taxpayer is contacted, set a specific date for filing. Secure sufficient information so that an accurate return can be prepared if the taxpayer fails to file by the specified date.

Example:

- A. Total wages, number of employees, and tax withheld for each delinquent return (Forms 941, 942 and 943).
 - B. Name of states in which wages were paid (Form 940).
 - C. Number of partners in the partnership, their names, addresses and social security numbers (Form 1065).
 - D. Type of truck, number of axles, gross weight of vehicle and tax due (Form 2290).
2. Advise taxpayers who are personally contacted that failure to file by the specified date will be considered a refusal to file. This could subject the taxpayer to a fine, criminal penalties, or both, under IRC 7203.
 3. Explain the trust fund recovery penalty, if applicable.
 4. If collection of the tax on a delinquent return appears to be in jeopardy, follow the procedures for prompt and jeopardy (IRM 5.1, section 4) assessments.
 5. If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Section 4.
 6. A summons is not required before using IRC 6020(b) authority. In some cases a summons may be necessary to establish the amount of the liability, see IRM 109.1 Summons for guidelines.
 7. A field call is required before using IRC 6020(b) authority.
 8. If the taxpayer fails to file employment, excise and partnership tax returns by the specified date, prepare the returns under the authority of IRC 6020(b).

5.1.11.9.2 (05-27-1999)
Preparation and Approval of Returns

Exhibit _____

*Teaching
Manual for
New Revenue
Officers*



Lesson 23
IRC SECTION 6020(B)

REFERENCES

Circular E

CONTENTS

- Introduction
- Objectives
- Authority
- The First Contact
- Preparation of the Returns
- Employment Tax Returns
- The Partnership Return
- Excise Tax Returns
- The Administrative Process
- Final Actions
- Summary

INTRODUCTION

The goal of the Collection Division is to promote voluntary compliance with the tax laws by firm and fair practice. Occasionally, you will meet taxpayers who refuse to file their tax returns voluntarily. In this lesson, you will learn how to deal with some of these situations.

The 6020(b) procedure is an important administrative tool that you will use to manage your TDI inventory.

OBJECTIVES

- At the end of this lesson, you will be able to:
- 23-1. Identify situations when action under IRC section 6020(b) is appropriate.
 - 23-2. Discuss various sources of information necessary to prepare returns.
 - 23-3. Correctly prepare Form 5604 and returns under IRC section 6020(b).

Figure 23-1

AUTHORITY

The Internal Revenue Code States: Section 6020. Returns Prepared for or Executed by Secretary.

(b) EXECUTION OF RETURN BY SECRETARY

(1) AUTHORITY OF SECRETARY TO EXECUTE RETURN - If any person fails to make any return (other than a declaration of estimated tax required under section 6015) required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

The Internal Revenue Regulations amplifys this section of the Code: Section 301.6020-1.

(b) Execution of returns - (1) In general. If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes willfully or otherwise, a false or fraudulent return, the district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

The authority has been delegated to revenue officers, among others (See Figure 23-2).

Figure 23-2

Order No. 182 (Rev. 3)

Effective date: 12-14-83 Authority to Execute Returns

The authority granted to the Commissioner of Internal Revenue by 26 CFR 301.6020-1(b) and 26 CFR 301.7701-9 to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is delegated to:

1. Revenue agents;
2. Tax auditors;
3. Revenue officers, GS-9 and above;
4. Collection Office function managers, GS-9 and above;
5. Automated Collection Branch Managers, GS-9 and above;
and
6. Service Center Collection Branch managers, GS-9 and above.

The authority delegated herein may not be redelegated. Delegation Order No. 182 (Rev. 2), effective March 7, 1983, is superseded.

/s/ James I. Owens
Deputy Commissioner



The IRM restricts the broad delegation shown in figure 23-2, for revenue officers, to employment, excise, and partnership tax returns because of constitutional issues. (You have already studied audit referrals as a means to enforce compliance on income tax returns).

Generally you can file the following returns, using the authority granted by IRC section 6020(b):

1. Form 940, Employer's Annual Federal Unemployment Tax Return
2. Form 941, Employer's Quarterly Federal Tax Return

3. Form 942, Employer's Quarterly Tax Return for Household Employees
4. Form 943, Employer's Annual Tax Return for Agricultural Employees
5. Form 720, Quarterly Federal Excise Tax Return
6. Form 2290, Federal Use Tax Return on Highway Motor Vehicles
7. Form CT-1, Employer's Annual Railroad Retirement Tax Return
8. Form 1065, U.S. Partnership Return of Income.

When you recommend an assessment under IRC section 6020(b), you will prepare all the necessary returns for compliance. If a return will be due during the IRC section 6020(b) processing time, prepare it as well.

THE FIRST CONTACT

In a future lesson you will learn about interviewing taxpayers. One of the things you will discover is that the more information you obtain in your initial interview, the easier your job will be.

When you first contact the taxpayer to secure delinquent returns and if the taxpayer does not file the returns at once, establish a specific deadline for filing the returns. Try to secure sufficient information at that time so that you can prepare the returns if the taxpayer does not meet your deadline. During that visit, inform the taxpayer that if he or she does not file the return(s) by the specified deadline, IRS will consider that failure as a refusal to file. Also inform the taxpayer that if the returns aren't filed voluntarily, they may be prepared and filed for them by IRS under the authority of IRC section 6020(b).

PREPARATION OF THE RETURNS

Before preparing and processing returns under IRC 6020(b), the following actions must have been taken:

1. A field call, if required, must have been made within 30 days prior to the recommendation for assessment.
2. Sufficient information must have been obtained from the taxpayer or other sources to provide a complete explanation of the basis for the assessment.

IRM

AUTOMATED NON-MASTER FILE ACCOUNTING

Not To Be Made Available To Persons Outside The Service

OFFICIAL USE ONLY

3(17)(46)0-1 1-1-96

MT 3(17)00-271

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.

(a) The Unprocessed Block List is used by management to determine which block of documents input by RACS have not been input by NMF. This tool aids in control for the work flow between the RACS and NMF functions.

(b) The Recap of Journalled RACS Summaries is a complete list of all RACS Recaps, including journal numbers, that have been input the previous day. This is a daily list generated by the Automated NMF system and used to control the work between the RACS and NMF functions.

(9) Daily, RACS receives an NMF Block Listing from the NMF DBA. RACS associates the listing with the related Forms 813 and documents and forwards this package to NMF for input of the document transactions. This list notifies NMF what Forms 813 have been entered onto the Form 813 Block Control screen by RACS the previous day. When a one day delay may jeopardize timely processing of any work, transmit the Form 813 and related documents via a Form 2258, Document Transmittal, as soon as the Form 813 is controlled on the system. Maintain a copy of the transmittal for document control on the NMF Block listing. Types of conditions where a one day delay may cause concerns are as follows:

- (a) Month end processing.
- (b) Notice issuance on weekends and holidays.
- (c) Expedite cases.
- (d) Workload inventories.

3(17)(46)2.5 (1-1-96)
Certification—General

(1) All assessments must be certified by signature of an authorized official on the Summary Record of Assessment (Form 23C, Assessment Certificate—Summary Record of Assessments). A signed Summary Record of Assessment authorizes issuance of notices and other collection actions (refer to IRC Regulations 301.6203-1).

(2) Most actions prescribed by this Chapter will be summarized on a Summary Record of Assessment by RACS.

(3) Some assessments are prescribed for expeditious action and will be certified on a daily basis. These assessments will require immediate preparation of the Summary Record of Assessment.

(4) Each block of assessment documents will have a Form 813. The Form 813 should be annotated with the following:

- (a) 23C Date
- (b) Journal Number
- (c) Journal clerk's initials

(5) The Automated NMF system has two types of assessments: pre-journalized and post-journalized. Forms 813 for pre-journalized documents must be annotated with the information in (4) (a), (b), and (c) above and must also include the NMF status. Post-journalized documents will generate a Recap, which will have the 23C date and the NMF status set by the system. The journal number and journal clerk's initials must be annotated on the Recap after journalization.

(6) The Automated NMF system will set the 23C date for two weeks in advance. The 23C date will be reset each week after the Thursday night processing is completed. Items input on Friday will carry the next 23C date set by the system.

[Code of Federal Regulations]
[Title 26, Volume 18]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 26CFR301.6203-1]

[Page 152-153]

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
(CONTINUED)

In General--Table of Contents

Sec. 301.6203-1 Method of assessment.

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. 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 or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability

[[Page 153]]

assessed, the taxable period, if applicable, and the amounts assessed.

Exhibit _____

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. BACKGROUND: Federal Register December 10, 2001 Treasury/IRS 22.060
5. Please send me a copy of the Non Master file and Comments Field maintained in a System of Records known as Integrated Data Retrieval System / IRS 22.060 which pertain to the above referenced requester.

Dated:

Respectfully,

, Requester

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Automated Non-Master File (ANMF)—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with the normal master file processes; e.g., penalties, transferee assessments, termination assessments, excise protest accounts, Master File overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040-NR, 926, 5330, 4720, 990-AR (Penalty) and any pre-ADP returns. Also, a record will be maintained for those taxpayers whose individual income tax overpayment has been retained and transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the States under Pub. L. 97-35.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module). Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by the States under Pub. L. 97-35. Also maintained will be names of the submission state, the amount owed, and the amount on any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for efficient accounting on files which are not compatible with the master file system. 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 PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Card file or magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number (social security number) or employer identification number), or document locator card.

SAFEGUARDS:

Access controls will not be less than those provided by the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records maintained in accordance with Records Disposition Handbooks, IRM 1.15.2.1 through IRM 1.15.2.31.

SYSTEM MANAGER(S) AND ADDRESS:

Management Official prescribing policies and practices—(Wage and Investment and Small Business Self Employed). Officials maintaining the system—Internal Revenue Service Center Directors. (See IRS appendix A for addresses.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this 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 should be addressed as in "Record access procedures" below.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS appendix A for addresses.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's account.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Individual Return Master File (IRMF)—Treasury/IRS.

SYSTEM LOCATION:

Martinsburg Computing Center, Martinsburg, West Virginia 25401, and Detroit Computing Center, 985 Michigan Ave., Detroit, MI 48226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of various types of income: wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions, annuities, retired pay or IRA payments; patronage dividends, distributions, and allocations; fishing crew payments; sales or redemption of securities, future transactions, commodities, bartering exchange transactions; original issue discount; distributions and prizes; currency transactions; state tax refunds; unemployment compensation, agricultural payments, taxable grants, indebtedness forgiveness; non-employees compensation; gambling winnings; and miscellaneous income.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are records representing certain wage and information returns: Forms W-2, W-2P, the 1087 and 1099 series; currency transaction reports; state tax refunds; statements of sales of equity obligations; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the income payer (very similar information), and identifies the type(s) and amount(s) of income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801 and 7802.

PURPOSE(S):

This system maintains records necessary for the efficient administration of tax accounts related to Wage and Information Returns.



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

March 19, 2004

Dear Mr.

This letter is in response to your three Freedom of Information Act requests dated January 16, February 11 and 14, 2004, seeking a copy of your Non-Master account maintenance activity, Non-Master file transcript, and form 1331-B Non-Master file examination adjustments for tax years 1995 through 2002 on your account.

We previously responded to two requests asking for Non-Master File information on your case numbers 62-2004-01172 and 62-2004-01050. We found no documents responsive to your request regarding Non-Master file records.

Enclosed is notice 393 explaining your appeal rights.

If you have any questions, please contact Diana Church, Badge # 62-11227, Disclosure Specialist, of my staff at (615) 250-5583 or 801 Broadway, MDP 44, Nashville, TN 37203. Your case numbers are 62-2004-01258, 62 and 62-2004-01074.

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian (Badge # 62-09241)
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. BACKGROUND: See Exhibit A, 1 of 2 and 2 of 2, Form 5734.
5. Please send a certified copy of the "Form 5734 Non Master File Assessment Voucher" which is specific to above referenced requester and no other and which indicates the alleged liability.
6. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.

DATED:

Respectfully,

, Requester

Non-Master File Assessment Voucher

1. Name and address			2. Document factor number (D.F.N.)	
			2. Taxpayer identification number (TIN)	
4. Type of tax	5. Form number	6. Period	7. M.F.T. code	8. Abstract number
9. Tax			S	
10. Penalty	I.R. Code Section or Type of Penalty	Trans. Code	Amount	
11. Interest			S	
12. Total (Sum of Lines 9, 10, and 11)			S	
13. Reason for assessment:				
14. Signature of preparer			15. Date	

Form **5734** (Rev. 1-91)

Col. No. 27725M

Department of the Treasury - Internal Revenue Service
U.S. Government Printing Office: 1991 - 517-090-9027



Exhibit **A** of **2**

Form 5734, Non-Master File Assessment Voucher

Reference IRM 7369

Non-Master File Assessment Voucher

1. Name and address (1)		2. Document location (office folder)	
		3. Taxpayer identification number (TIN) (2)	
4. Type of tax (3)	5. Form number (4)	6. Period (5)	7. MFY rate (6)
8. Tax			8. Abstract number (7)
10. Penalty	IR Code Section or Type of Penalty (8)	Trans. Code	Amount (9)
11. Interest			
12. Total (Sum of Lines 9, 10, and 11)		\$	(10)
13. Reason for assessment (11)			
14. Signature of preparer (12)		15. Date (13)	

Form 5734 (Rev. 1-81)

Ord. No. 777284

Department of the Treasury - Internal Revenue Service
U.S. Government Printing Office: 1981 - 507-020-0000

Review of Form 5734 for Civil Penalty Assessments

- Full name and address of taxpayer.
- TIN of person against whom the penalty is to be assessed.
- "Civil Penalty".
- Form number of the appropriate return.
- Period to be assessed.
- Examination penalties--

MFT 20	IRC 6700, 6701, 6702	
MFT 28	IRC 6652(a)(b)	
EP penalties--	MFT 74	IRC 6652, 6690, 6692
	MFT 76	IRC 6651
	MFT 29	IRC 6693
- Abstract Number - Refer to Exhibit 500-7 of IRM 7530, Chapter 500 for abstract numbers.
- Accounted to be assessed.
- Accounted to be assessed (EP/EO Support and Processing personnel will complete this item, if missing).
- "Examination Request" or other appropriate statement. Forms prepared by EP must include the plan year ending and the three digit plan number; the File Folder Number should be in parentheses.
- Signature and office location, including examination group number, and the initials of the reviewer.
- Date prepared.

Exhibit 1252



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

February 26, 2004

Dear Mr.

This letter is in response to your Freedom of Information Act request dated January 9, 2004. In checking our records, we found no responsive documents pertaining to your request seeking Form 5734 Non Master File Assessment Voucher. Please find enclosed Notice 393 explaining your appeal rights.

If you have any questions, please call Diana Church, Disclosure Specialist, of my staff at (615) 250-5583. Our office is located at 801 Broadway, MDP 44, Nashville, TN 37203. Your case number is 62

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim D. Christian", is positioned below the word "Sincerely,".

Tim D. Christian
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

3.17.63.14 (10-01-2001)

Account Series 6000 Assessments and Settlements

1. This series of accounts records the assessment of tax liabilities and the incurment 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 (10-01-2001)

Account 6001 Installment Agreement Liability

1. This account has been established for future use.
2. This account sets up the liability for Installment Agreement User Fees when these fees are established on the master file.

3.17.63.14.2 (10-01-2001)

Account 6010 Arbitrage Revenue (Ogden Only)

1. This account is used to summarize the total amount of assessments of non-tax revenue money. The balance of this account represents total non-revenue assessments for the year.
2. These assessments will not appear on the Summary Record of Assessments (Assessment Certificate).

3.17.63.14.3 (10-01-2001)

Account 6011 Arbitrage Penalty Revenue (Ogden Only)

1. This account is used to summarize the total amounts of assessments of non-tax revenue penalties. The balance of this account represents total non-tax revenue penalty assessments for the year.
2. These penalty assessments will not be recorded on the Summary Record of Assessments (Assessment Certificate).

3.17.63.14.4 (10-01-2001)

Account 6110 Withholding Tax Assessments--Principal

1. This account is used to summarize the total amounts of assessments of tax class **Principal** as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 **Principal** assessments for the year.
2. All **principal** assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.
3. Total tax class 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

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

Exhibit _____

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account #

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, 23C Certificate of Assessment.
5. Please send a certified copy of the Record of Assessment Form 23C which is specific to above referenced SS# or EIN# and no other and which indicates the alleged liability.
6. Please note: I am not asking for a 006 RACS report, or Form 4340.
7. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.
- 8.

DATED:

Respectfully,

name, Qualified Requester

Assessment Certificate

Summary Record of Assessments

Prepared by

Assessment Office

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)				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									

5. Jeopardy Assessments Against Principal Taxpayers
(Included in the assessments above)

Taxpayers

Date and Number

Through

Date and Number

Number of principal taxpayers

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 or 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 A



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

March 4, 2004

Dear Mr.

This letter is in response to your Freedom of Information Act request dated January 11, 2004 and received in our office February 24, 2004.

In response to your request for the 23-C assessment certificates, please note that Form 23C, Assessment Certificate and the Summary Record of Assessments (SRA) which replaced Form 23-C, and the RACS-006, are aggregate records of assessments for a given day or week which list all taxes, penalties, penalties and interest (aggregate figures only) assessed on a given date by class of tax for all taxpayers. There are no Forms 23C or SRA's on file that identify you or any other taxpayer by name.

In response to your request for the 23-C assessment certificates, we are enclosing transcripts from the Individual Master File for tax periods 1995 through 2001. These transcripts represent a valid copy of the record of assessment by providing the taxpayer name, taxable period, assessment dates, the assessment amounts, and the character of the assessment. These transcripts consist of 9 pages and meet the requirements of Regulation 301.6203 and comply with 26 U.S.C. Section 6203, 26 CFR section 301.6203-1.

No assessments have been made on your 2002 tax module.

If you have any questions, please contact Diana Church, Badge # 62-11227, Disclosure Specialist, of my staff at (615) 250-5583 or 801 Broadway, MDP 44, Nashville, TN 37203. Your case number is 62

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian (Badge # 62-09241)
Nashville Disclosure Officer
Governmental Liaison and Disclosure

LI

legal information institute

US CODE COLLECTION



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[search](#)

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 63](#) > [Subchapter A](#) > [Sec. 6203.](#)

[Prev](#) | [Next](#)



Sec. 6203. - Method of assessment

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. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment

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- [Parallel authorities \(CFR\)](#)
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EXHIBIT



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Parallel authorities for 26 USC 6203 (from CFR)

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

- [27 CFR part 70](#)

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EXHIBIT

[Code of Federal Regulations]
[Title 26, Volume 18]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 26CFR301.6203-1]

[Page 152-153]

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
(CONTINUED)

In General--Table of Contents

Sec. 301.6203-1 Method of assessment.

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. 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 or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability

[[Page 153]]

assessed, the taxable period, if applicable, and the amounts assessed.

EXHIBIT

TPS
Forms
+ Publications

Forms

W-9 10231X Each
01/2002 Min Supply For Late Filers
Request for Taxpayer Identification
Number and Certification

This form is used to report the taxpayer identification number (TIN) of the record owner of the account to the payer (or broker). Major Tax Form
W:CAR:MP:M:T:M Tax Form or Instruction

W-9S 25240C Each
10/2000 Destroy Prev Issues Upon Rec
Request for Student's or Borrower's
Taxpayer Identification Number and
Certification

Form to request student's or borrower's social security number and certification by educational institution or lender.
OP:FS:FP:F:M Tax Form or Instruction

W-10 10437N Each
08/1996 Destroy Prev Issues Upon Rec
Dependent Care Provider's Identification
and Certification

Form W-10 requires the taxpayer to file information about the caretaker of a child or other dependent when a tax credit on a return is claimed or when benefits from a dependent care assistance program is received. OP:FS:FP:F:M Tax Form or Instruction

11 C 16166V Each
01/2001 Destroy Prev Issues Upon Rec
Occupational Tax and Registration
Return for Wagering

Used to report taxes due under section 4401 and 4411 of IRC (54); also an application for registry and wagering activities. Prescribing Instructions are IRC 4411, 4412, 44.4412, 44.4901.
OP:FS:FP:F:M Tax Form or Instruction

23 16233B Each
09/2000 Destroy Prev Issues Upon Rec
Application for Enrollment to Practice
Before the Internal Revenue Service

Form 23 is an application used by qualified IRS employees and those who pass the Special Enrollment Exam (SEE) and wish to practice before the Internal Revenue Service as an Enrolled Agent.
N:C:SC:DOP Tax Related Public Use

23 C 16237T Each
10/1987 Destroy Prev Issues Upon Rec
Assessment Certificate - Summary
Record of Assessments

Form 23-C is used to officially assess tax liabilities. The completed form is retained in the service center case file as a legal document to support the assessment made against a taxpayer. R:R:A:RA Internal Use

53 16360J Each
03/1997 Use/Issue Prev Issue First
Report of Currently Not Collectible
Taxes

Form 53 is used when it is determined that a taxpayer delinquent account cannot be collected at the present time.
S:C:CP:FP:CRA Internal Use

56 16375I Each
04/2002 Min Supply For Late Filers
Notice Concerning Fiduciary
Relationship

This notice filed with Internal Revenue by every person acting in a fiduciary capacity for another person.
W:CAR:MP:FP:F:CD Tax Form or Instruction

56 F 12784J Each
11/1991 No Previous Issue
Notice Concerning Fiduciary
Relationship of Financial Institution

Use new Form 56-F to notify the IRS of a fiduciary relationship only if that relationship is with respect to a financial institution (i.e., a bank or a thrift). T:FP:F:CD Tax Form or Instruction

211 16571S Each
06/1997 Destroy Prev Issues Upon Rec
Application for Reward for Original
Information

Form is to be completed by a claimant for reward for information leading to the detection of a violation of Internal Revenue laws. Space is provided to show allowance of the reward and approval for payment.
CP:EX:MA Tax Related Public Use

211 (SP) 12575W Each
06/1997 Destroy Prev Issues Upon Rec
Application for reward for Original
Information (Spanish Version)

Form is to be completed by a claimant for reward for information leading to the detection of a violation of Internal Revenue laws. To collect information from the Hispanic population. CP:EX:MA Tax Related Public Use

211 A 16572D Each
03/1989 Destroy Prev Issues Upon Rec
State or Local Law Enforcement etc.

The Anti-Drug Abuse Act of 1988 26 4.S.C. 7624 Provides that state and local law enforcement agencies may apply for a reimbursement of their expenses in situations where they provided information with respect to illegal Drug-Related activities to the IRS. This form will be used as the application. CI:P:T Other Public Use

226 A 16584V Each
11/1987 No Previous Issue
Appraisal List (Seized Property)

Forms are used to list the properties seized and appraisal of the values of these properties. CI:S:RPE Internal Use

433 A (SP) 20503E Each
08/2000 Destroy Prev Issues Upon Rec
Collection Information Statement for
Individuals (Spanish Version)

Form 433-A(SP) is prepared to provide the financial data used to determine collectibility of taxes from the spanish-speaking taxpayer. S:C:CP:FP:CR Tax Related Public Use

433 A 20312N Each
05/2001 Destroy Prev Issues Upon Rec
Collection Information Statement for
Wage Earners and Self-Employed
Individuals

Form 433-A provides information necessary for determining how a wage earner or self-employed individual can satisfy an outstanding tax liability. S:C:CP:FP:CR Tax Related Public Use

433 B (SP) 20596B Each
02/2000 Destroy Prev Issues Upon Rec
(Spanish version) Collection Information
Statement for Businesses

Form 433-B(SP) is the spanish equivalent of Form 433-B. The form is used to determine how a spanish business taxpayer can satisfy an outstanding tax liability. S:C:CP:FP:CR Tax Related Public Use

433 B 16649P Each
05/2001 Destroy Prev Issues Upon Rec
Collection Information Statement for
Businesses

Form 433-B provides information necessary for determining how a business taxpayer (i.e., other than a wage earner or a self-employed individual) can satisfy an outstanding tax liability. S:C:CP:FP:CR Tax Related Public Use

433 D (SP) 20664S Each
03/1998 Destroy Prev Issues Upon Rec
Installment Agreement (Spanish
Version)

This form is spanish translation of Form 433-D to improve customer service and reduce taxpayer burden.
S:C:CP:FP:CRA Internal Use

433 D 16644M Each
05/1996 Destroy Prev Issues Upon Rec
Installment Agreement

Form 433-D is an agreement signed by the taxpayer to pay delinquent taxes in installment payments. S:C:CP:FP:CRA Tax Related Public Use

433 DV 21097R Each
02/1995 No Previous Issue
Payment Voucher

This form is a payment voucher that will allow the taxpayer an easier payment process. CP:CO:SC:C Internal Use

433 F 62053J Each
12/1999 Destroy Prev Issues Upon Rec
Collection/Information Statement ACS

Collection Information Statement for individuals (CIS) was designed to be prepared by IRS personnel. ACS mails the CIS to taxpayers for completion. Taxpayer Service may also mail out the CIS-ACS to taxpayers who do not meet the TPS criteria for handling. W:CP:FPC:SCCB Tax Related Public Use

514 B (C) 16672E Each
06/1986 Destroy Prev Issues Upon Rec
Tax Transfer Schedule

Form 514-B is used to transfer the collection of a taxpayer's account from one district to another district.
OP:FS:S:A:A Internal Use

Self authentication

DELEGATION ORDER

Authority for Delegation:
Treas. Reg. 301.7701-9(b)-(c)
Delegation Order No. 193

Date of Issue:
September 28, 2000

Effective Date:
October 1, 2000

Subject: Authority to Sign Form 23C, Assessment Certificate

The authority to sign Form 23C, Assessment Certificate, as the Assessment Officer on behalf of the Area Director is delegated to:

Revenue Officers, Grade GS-9 and above
Revenue Agents, Grade GS-11 and above



*Alcohol
Tobacco
+
Jewelry*

To the extent that authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.

Redelegation:

Authority may not be redelegated

Authority may be redelegated as specified in text

Signature

Division Commissioner

Effect on other Documents:

None

Distribution:

All SB/SE Managers

630070

Assessment Certificate

Summary Record of Assessments

1. Service center

2. Date

3. Prepared by

4. Number

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									

5. Jeopardy Assessments Against Principal Taxpayers
(Included in the assessments above)

6. Prepared From Accounting Input Reconciliation Sheets

Date and Number

Through

Date and Number

Number of principal taxpayers

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

DEPARTMENT OF TREASURY

**INTERNAL REVENUE
MANUAL**

5300

**Balance Due Account
Procedures**

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

fund may not be due, advise the taxpayer that Collection of the TDA cannot be withheld

5350 (11-15-85)
Lien for Taxes

5351 (11-15-85)
Creation and Duration of Lien

(1) The liability of a taxpayer for internal revenue taxes is personal in nature. A lien has been created by statute which attaches to a taxpayer's property and charges it with his personal liability for the tax assessment. This lien is the "statutory" lien or as the "general" lien. Certain requirements in establishing the lien are contained in IRC 6321:

- (a) An assessment must have been made;
- (b) A demand for payment must have been made, and
- (c) The taxpayer must have neglected or refused to pay.

(2) The lien arises on the date of assessment and after demand and nonpayment, attaches to all property and rights to property belonging to the taxpayer at any time during the period of the lien, including any property or rights to property acquired after the lien arises. See *Legal Reference Guide for Revenue Officers* (hereinafter referred to as LRG).

(3) Such lien shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

5352 (11-15-85)
Estate and Gift Tax Liens

5352.1 (11-15-85)
General Lien Under IRC 6324(a) and 6324(b)

(1) The estate and gift tax liens provided for by IRC 6324(a) and (b) are special liens, similar in character to the lien imposed by IRC 6321. The general lien imposed by IRC 6321 and the special lien for estate or gift tax are not exclusive of each other, but are cumulative.

(2) There is no provision of law which requires that notice of the estate tax lien or the gift tax lien be filed to ensure validity of such lien. However, such lien is not valid as against a mechanic lienor and against the superpriority categories described in LRG 252 if the condi-

tions specified are satisfied even though a notice of Federal tax lien has been filed. If the lien or security interest has priority over the estate or gift tax lien, such priority extends to interests and expenses to the extent such items have priority.

(3) The special estate tax lien imposed by IRC 6324(a) attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into the possession of the duly qualified executor or administrator. It attaches to the extent of the estate tax shown due by the return, and of any deficiency in estate tax found due upon review and audit. The estate tax lien continues for a maximum period of ten years after the decedent's death or until the tax is paid, or becomes unenforceable by reason of the running of the statute of limitations on collection.

(4) The special gift tax lien imposed by IRC 6324(b) attaches to all gifts made during the calendar year for the amount of the gift tax imposed upon the gifts made during such year. If the gift tax is not paid by the donor when due, the donee of any gift becomes personally liable for the tax to the extent of the value of the gift. The gift tax lien extends for a period of ten years from the time the gifts were made or until the tax is paid, or becomes unenforceable by reason of the running of the statute of limitations on collection.

(5) These special estate and gift tax liens are terminated before expiration of the ten-year period by reasons of the running of statute of limitations on collection (normally six years after assessment).

(6) IRC 6324(a)(2) provides, with certain exceptions, that if the estate tax is not paid when due, the spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary of the estate shall be liable for the payment of the estate tax to the extent of the value of the estate's property held by, or passing to such person. A further provision of the same statute renders the property of the individual, who may become liable for the estate as a transferee, subject to the same lien, if the property received from the estate or which was includible in the gross estate is transferred by the individual in such a manner as to divest the property of the estate tax lien.

(7) Although the estate tax lien does attach to the assets in the gross estate, it should be noted that election of the IRC 6166 installment privilege can remove qualifying property from its effects.

5352.2 (11-15-85)
Specific Estate Tax Lien Under
IRC 6324A and 6324B

5352.21 (11-15-85)
Specific Lien Under IRC 6324A

(1) If payment of the estate tax is deferred under IRC 6166 or 6166A, the executor may elect a lien in favor of the United States in lieu of the bond required under IRC 2204 or 6165. The lien attaches specifically to IRC 6166 property for a period of up to 15 years.

(2) If the executor does elect the special estate tax lien and has secured the required signed agreements from all parties having any interest in any of the property to which the lien attaches, Form 668J, Notice of Federal Estate Tax Lien, will be filed by the Special Procedures function.

(3) Form 668J, will be filed in the name of the estate and the name of the current owner(s) of record of the property described on the lien, if other than the estate.

(4) A complete and accurate description of the property the lien attaches to will be made on Form 668J. The following disclaimer will be added after the description: "*This notice of lien is filed for the purpose of giving notice that the United States has lien rights against any rights, title or interest that the above named may have in the above described property. This notice of lien does not attach to any other real or personal property in which the above named may have an interest except the property described herein.*"

(5) Even though the notice of this lien has been filed, such lien shall not be valid:

(a) against real property tax and special assessment liens (to the extent provided in IRC 6323(b)(6)).

(b) in the case real property subject to a mechanic's lien for repairs or improvement.

(c) as against any security interest set forth in IRC 6323(c)(3) (whether such security interest came into existence before or after tax lien filing).

(6) However, (b) and (c) above will not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under IRC 6323(f)) that payment of the deferred amount has been accelerated under IRC 6166(g) or 6166A(h).

5352.22 (11-15-85)
Specific Lien Under IRC 6324B

(1) IRC 2032A provides for a special valuation for certain farms and closely held family business real property which will result in a lower estate tax. In the event that the criteria for the IRC 2032A valuation do not continue during the required period, then the tax attributable to the special valuation is recaptured. Section 6324B imposes a lien attaching to the specific property valued under Section 2032A for a period not to exceed 15 years (10 years for taxpayers dying after 1981).

(2) If the executor properly elects the special valuation under 2032A and secures the required signed agreements by all parties having interest in the specially valued property, the Examination function will complete and forward Form 6111 Notice of Special-Use Valuation Election (IRC 2032A), to SPI via Form 3210, Document Transmittal. The transmittal shall show the total number of Forms 6111 it covers. SPI will verify the number of Forms 6111, acknowledge receipt of Form 3210 and return Part 1 to the originator. SPI will also verify that each Form 6111 includes a copy of the agreement signed by all "qualified heirs" and all other parties having an interest in the property covered by the Special-Use Election (IRC 2032A). The agreement must designate an agent for dealings with the Internal Revenue Service. Also a complete legal description of the real property to be covered by the lien must be included on the Form 6111 or attached so that a lien can be prepared.

(3) Upon receipt of Form 6111, Notice of Special-Use Valuation Election (IRC 2032A), SPI will prepare and file Form 668-H, Notice of Federal Estate Tax Lien Under Internal Revenue Laws, in the name of the estate and all "qualified heirs" as shown on Form 6111. Only one Form 668-H will be used unless a local jurisdiction requests separate forms.

5353 (11-15-85)
Notice of Lien

5353.1 (11-15-85)
Validity and Priority of Lien

(1) IRC 6323(a) modifies IRC 6321 by providing that the Federal tax lien is not valid against purchasers, holders of security interests, mechanic's liens, and judgment lien creditors

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until a notice of lien has been filed. The filing of the notice of lien is notice to these creditors that the lien, provided for by IRC 6321, exists. The tax lien becomes valid, with certain exceptions, as against the creditors therein named at the time notice of lien is filed.

(2) The determination as to whether a person is one of the class entitled to the protection of IRC 6323(a) is to be made by reference to the facts in a given case and in accordance with the definitions and special rules provided by the Code. See Exhibits 5300-2 and 5300-3. The various classes and their priority positions are more fully defined in LRG.

5353.2 (11-15-85) Protection for Certain Interests Even Though Notice of Lien Filed

- (1) The ten "superpriorities" are:
- (a) Securities
 - (b) Motor Vehicles
 - (c) Retail Purchasers
 - (d) Casual Sales
 - (e) Possessory Liens
 - (f) Real Property and Special Assessment

Liens

- (g) Small Repairs and Improvements of Residential Real Property
- (h) Attorneys Liens
- (i) Certain Insurance Contracts
- (j) Passbook Loans

5354 (11-15-85) Priority of Certain Other Interests

5354.1 (11-15-85) General

(1) The priority over a filed notice of tax lien for advances made after, or with respect to, property coming into existence after the filing of a notice of tax lien is to occur only if local law gives such priority. In such cases the protection under local law must be the same as that provided against a judgment lien creditor as of the time the notice of lien is filed.

(2) In view of certain statutory provisions which rely on local law to determine when an instrument becomes protected under such local law, the priority position of unrecorded instruments, particularly mortgages, should be governed by the local law. See LRG 242.

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5354.2 (11-15-85) 45-Day Period for Making Disbursements

The law also provides priority generally with respect to security interests in property held by the taxpayer before the notice of tax lien filing which arose as a result of disbursements made prior to the 46th day after the filing of a tax lien, unless actual notice or knowledge of the filing is sooner obtained. However, for the priority to exist in such cases, certain conditions must be met. See LRG 258.5.

5354.3 (11-15-85) Priority of Interest and Expenses

Interest and certain expenses now enjoy the same priority as the lien or security interest to which they relate. The types of interest referred to are included in IRC 6323(e). See LRG 259.

5355 (11-15-85) Filing Notice of Lien

5355.1 (11-15-85) Considerations Before Filing

5355.11 (11-15-85) General

(1) The employee to whom a TDA is assigned is responsible for safeguarding the government's interest. The timely filing of a notice of lien is a basic tool to accomplish that end. Since there cannot be a definitive set of rules to meet all the situations in which a notice of lien should be filed, the person assigned the TDA must exercise judgment in deciding whether a notice of lien should in fact be filed.

(2) The responsible employee will make a reasonable effort to contact the taxpayer, in person, by telephone, or by a notice sent by certified mail, delivered in person, or left at the taxpayer's last known address, before filing a notice of lien. (See P-5-47.) The employee should afford the taxpayer the opportunity to make payment and should explain the effect that the filing of a notice of lien could have on normal business or credit operations. The taxpayer should also be advised that absent payment or other security arrangement of the need for filing such notice of lien. There is no need to contact the taxpayer prior to filing a lien if there is another lien already filed against the taxpayer on other accounts and a certified notice has been sent on the new account. See Exhibit 5300-4 for basic criteria.

(3) Lien filing (or refiling) determinations will also be made on reactivated TDAs.

5355.12 (11-15-85) Procedural Guidelines

(1) ACS must make a lien filing determination and file a lien, as appropriate, on cases of \$5,000 or more where a jeopardy situation exists or the taxpayer fails to perform agreed upon actions timely. A lien determination and lien filing, if appropriate, must also be made on all installment agreement cases where the aggregate assessed balance is \$5,000 or more or, where the aggregate assessed balance is \$2,000 or more and the period of the agreement exceeds 12 months. A lien filing determination need not be made on cases under \$5,000 unless:

- (a) a jeopardy situation exists;
- (b) an installment agreement is in default (or is for a period exceeding 12 months); or,
- (c) an amount is being reported currently not collectible and the total outstanding liability is \$2,000 (\$500 where the taxpayer is known to own real property) or more.

(2) A lien filing determination and lien filing, as appropriate, must be made by a revenue officer on all cases of \$500 or more as soon as possible after taxpayer contact by telephone or attempted or actual field contact. If contact or attempted contact cannot be made within the time frame established by local management a lien determination and lien filing, if appropriate, must be made. A lien may be filed if a certified notice has been sent to the taxpayer. (See Policy Statement P-5-47.)

(3) The filing of a notice of lien is not mandatory prior to the service of a notice of levy on wages, salaries, commissions, or other compensation, bank accounts, accounts receivable, or other simple contract debts in the hands of third parties.

(4) No notice of lien need be filed against a nonpaying officer when an abatement of the 100-percent penalty is pending because the assessment was paid by one of the officers.

(5) If, upon receipt of a Daily Transaction Register (DTR), an additional assessment is to be posted to a TDA, determine the need for filing a notice of lien. If a filing is required, the date of the transaction code indicated, 290,300, etc., is the assessment date of the liability and should be so indicated on a notice of lien.

(6) The date of the transaction code establishing a penalty for a delinquency, dishonored check, failure to use depositary receipts, etc., is the assessment date of the liability. Accrued interest and penalties added to tax should only be collected during the limitations period for collecting the tax from which they are derived. This limitation does not apply to the "bad check" or "fraud" penalty.

(7) In Federal Bankruptcy Act or state insolvency proceedings, exempt assets may be reached by the usual levy procedure. A notice of lien should be filed to protect and preserve the right of the Government in the exempt property.

(8) Section 362(a) of the Bankruptcy Code (for proceedings filed on or after October 1, 1979) imposes an automatic stay on actions of creditors, including the United States, as of the date of petition. A notice of lien cannot be filed until the automatic stay is lifted and, Special Procedures function (SPI) concurs with such filing.

(9) A notice of tax lien filed after a taxpayer's death hampers the liquidation and administration of the assets of the estate. Such notice should not be filed unless, SPI, has determined that such action is necessary.

(10) In cases where the taxpayer resides outside the United States, the contact requirements in (1) above are waived. If there are known assets in the United States, a notice should be sent advising the taxpayer of the necessity for filing a lien if payment is not forthcoming.

5355.2 (11-15-85) Form of Notice

The forms to be used for filing the notice of lien are Form 668, Notice of Federal Tax Lien Under Internal Revenue Laws, Form 668(C) for continuous preparation and Form 668(C)(ACS) for service center preparation of notices of lien on ACS accounts.

5355.3 (11-15-85) Preparation of Notice

5355.31 (11-15-85) General

(1) When it is determined that a notice of lien should be filed, Form 668 should be prepared, as shown in Exhibit 5300-5. All further refer...

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ences to Form 668 also apply to Forms 668(C) and 668(C)(ACS).

(2) Form 668 may be prepared to cover several assessments against the same taxpayer.

(a) If the Form 668 is prepared by listing one or more TDA's, separate entries will be made in each column for each TDA.

(b) If the Form 668 is prepared from one TDA with multiple assessments shown, column

(d) on the Form 668 should show all of the assessment (23C) dates, column (e) the last date for retreating the notice for each respective assessment (see IRM 535(11).3 for determining these dates) and column (f) the total outstanding assessed balance for that TDA at the time the notice of lien is filed.

(c) If the entire assessed amount has been paid but unassessed accrued amounts remain outstanding, a notice of lien may be filed without assessment of such accrued amounts, and the total amount thereof should be entered in column (f), with the heading of the column clearly changed to show "Amount Outstanding." Other assessment data shall be entered from the TDA's to which the accruals relate.

(3) The taxpayer's name as shown on the notice of lien should agree with that stated on the TDA. The use of initials only should be avoided. If the taxpayer's name on the TDA is incorrect, the notice of lien should state the name of the taxpayer correctly, and the necessary steps taken to correct the accounting records. When it is evident that the notice of lien to be filed is intended to reach the right, title, and interest of an individual or corporate taxpayer operating under a trade name, both the individual and trade name should appear as the taxpayer's name.

(4) Where a partnership is the taxpayer and employment taxes are involved, the notice of lien should be prepared showing the words "a partnership" after the partnership name AND list the names of all the known partners; e.g.,

- XYZ, a partnership,
- A, a partner
- B, a partner,
- C, a partner.

(5) Where a corporation is the taxpayer the notice of lien should be prepared showing the words "a corporation" after the corporate name, e.g., XYZ, Inc., a corporation.

(6) Errors of a minor nature appearing on the assessment list may be corrected after the assessment is made without following the statuto-

ry procedure for making a supplemental assessment. However, if such an alteration would have the effect of imposing an assessment upon an additional or different person, the change should not be made except by a supplemental assessment.

(7) The form shall bear the signature of an employee with the delegated authority to execute Forms 668. The employee's name should be typed below in the lower portion of the space for his/her signature and his/her title inserted in the appropriate block. The signature may be performed manually or by facsimile methods. In the latter case, the employee whose signature appears on the form is responsible for its execution as if he/she had signed manually. Those parts of the form titled "Certificate of Release of Federal Tax Lien" will be executed only when the certificate of release of the lien is to be issued.

5355.32 (11-15-85)

Use of Trade Names

(1) The abbreviation "d/b/a" for "doing business as" should be used only where an individual is actually doing business as a sole proprietor under a trade name, e.g., Edwin E. Kelly d/b/a Kelly's Garage. The abbreviation should never be used in a partnership situation.

(2) The same degree of care should be exercised when using the abbreviation "t/a" for "trading as." As a general rule, this is used where a corporate entity operates under a trade name other than the corporate name, e.g., Werk Hard, Inc., t/a The Diggers.

5355.33 (11-15-85)

Consideration of "Transferee and Nominee" Cases

(1) Revenue officers may encounter situations in which the taxpayer has transferred property where the circumstances indicate either actual or constructive fraud was involved in the transfer. In other cases, property may have been acquired in the name of another person or entity but the taxpayer exercises dominion and control over the property to such an extent that it is clear the title holder is possessed of nothing more than the "color of title." Such situations may give rise to an administrative transferee assessment, a suit to assert a transferee liability or a suit to set aside a fraudulent conveyance.

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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

April 16, 2004

Dear Mr.

This letter is in response to your Freedom of Information Act request dated January 22, 2004 and received in our office March 2, 2004 seeking a Summary of Record of Assessment, RACS 006. Enclosed are the documents you requested, 18 pages.

We found no responsive documents for assessment dates of January 7, 1999 or January 12, 2004. Enclosed is notice 393 explaining your appeal rights.

If you have any questions, please contact Diana Church, Badge # 62-11227, Disclosure Specialist, of my staff at (615) 250-5583 or 801 Broadway, MDP 44, Nashville, TN 37203. Your case number is

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian (Badge # 62-09241)
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

MEMPHIS

Certificate Number 13319980720003 Assessment Type Regular Assessment Date 07201998

Current Assessments

Class of Tax	Items	Tax	Penalty	Interest
WITHHOLDING	5926	220,295,509.68	5,838,030.67	614,499.67
INDIVIDUAL CORPORATION	59971	2,506,255,609.99	17,718,278.16	3,583,232.29
EXCISE	1931	90,366,971.25	773,024.72	179,268.34
ESTATE & GIFT	156	7,351.00	108,360.67	2,720.14
CTA	126	14,748,254.87	564,622.48	216,610.89
FUTA	0	0.00	0.00	0.00
FUTA	503	1,095,708.25	61,765.69	50,533.16
Total Current Assmts	68613	2,832,769,405.04	26,064,082.39	4,646,864.49

Deficiency Assessments

WITHHOLDING	24	160,705.57	2,749.03	2,419.80
INDIVIDUAL CORPORATION	2637	4,944,632.86	489,977.32	683,006.10
EXCISE	74	10,516,076.65	28,042.12	802,141.94
ESTATE & GIFT	6	13,517.17	231.28	882.54
CTA	6	224,616.74	0.00	7,290.23
FUTA	0	0.00	0.00	0.00
FUTA	4	21,826.80	313.96	0.00
Total Deficiency Assmts	2751	15,881,375.79	521,313.71	1,695,740.61
Total Assessments	71364	2,848,650,780.83	26,585,396.10	6,342,605.10

MEMPHIS

Certificate Number 13319980720003 Assessment Type Regular Assessment Date 07201998

Tax Class Summary

Tax Class	Items	Amount
WITHHOLDING	5950	227,913,914.42
INDIVIDUAL	62608	2,533,874,736.72
CORPORATION	2005	102,665,525.02
EXCISE	162	133,062.80
ESTATE & GIFT	132	15,761,395.21
CTA	0	0.00
FUTA	507	1,230,147.86

Principal Taxpayers And Amounts Number Amount
Related to Jeopardy Assessments 0 0.00

Certification

I certify that the taxes, penalty, and interest of the above classifications, hereby assessed, are specified in supporting records, subject to such corrections as subsequent inquiries and determinations in respect thereto may indicate to be proper.

Signature (For Service Center Director of Internal Revenue Service)

[Handwritten Signature]
Assessment Officer

Date 7-20-98 *for 9/20/98*

V REV ACCT
151

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. BACKGROUND: See Exhibit A, 1 of 1, Form 8278.
5. Please send a certified copy or copies of "Form 8278 Computation and Assessment of Miscellaneous Penalties" which is specific to above referenced requester and no other and which indicates the alleged liability.
6. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.

DATED:

Respectfully,

, Requester

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. BACKGROUND: See Exhibit A, 1 of 1, Form 3198. (IRM 48(13)1, IRM 4414, and IRM 4482.21).
5. Please send a certified copy or copies of "Form 3198 Special Handling Notice" which is specific to above referenced requester and no other and which indicates the alleged liability.
6. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.

DATED:

Respectfully,

, Requester

Special Handling Notice

NAME _____

Year(s)/Period(s) Ended _____

Quality Measurement Staff

- Mandatory Review (State nature, per IRM 4414.1) _____
- Sample Review
 - Systematic
 - Management Identified
- TCMP
- Joint Committee Case
- Employee Returns

Expedite

- Prompt Assessment Request, Expires _____
- Other _____
Specify _____

Special Handling/Processing Instructions
(IRM 48(13)1—Exhibit 300-1, IRM 4414 and IRM 4482.21)

- Issue Notice of Claim Disallowance
- Restricted interest case, IRC section _____
- Send all communications as per power of attorney
- Address/Name Change _____

- Assess/Adjust
 - Deficiency, claim involved
 - Penalty
 - Prepayment Credit
- Process
 - Partial Agreement
 - Partial Payment
- Manual refund
 - Deceased taxpayer
 - Hardship case
 - Innocent Spouse
- Other (Specify) _____

- Special Instructions (state nature, date & initials)

_____ Date _____ Initials _____

_____ Date _____ Initials _____

_____ Date _____ Initials _____

_____ Date _____ Initials _____

Note: This form is to be fastened at the upper left corner of the case file and on top of all other forms except Form 895 and 2844.

Exhibit A / of 1

FREEDOM OF INFORMATION ACT REQUEST

TO: Internal Revenue Service
Attn: Disclosure Officer

FROM:

Account _____

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations there under. 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 segregable. I am waiving personal inspection of the requested records. Under penalty of perjury I am an All Other requester.
3. This request pertains to the years: _____ through _____
4. Please send me a copy of the AMDISA File, (page, 01, 02, 03, 04, and 05), which pertains to this requesters account.

Dated:

Respectfully,

, Requester

① AMDISA. ② MFT>30 TX-PRD>199312 ③ NM-CTRL>ROBE
PRIMARY-NAME> JULIAN-DT>2003342
ASED>07/EE/1998 OPNG-CRTN/TRANSFR-DT>11/26/1997
SOURCE-CD>24 REFUSAL TO FILE TDI ④ ⑤ EXAM-START-CYC>199711

DIF-REASON-CODE>R
ACTY-CD>532 ⑥ MF-TC>640 ⑦ ⑧ SUSP-CD>2 DIS-IND>4
SPOUSES-SSN>

STATUTE-XTRCTN-IND>1 PARTIAL-AGRMT-IND>0 TC-300-IND>0
PBC>208 SBC>33000 POD>350
EGC/DT>1442 00/00/0000 PRIOR-EGC/DT>0000 00/00/0000 PRIOR-SBC>35000
CURRENT-STATUS-CD/DATE PRIOR-STATUS-CD/DATE
17 FRAUD 10/09/2003 12 STARTED 09/24/2003
PROJ-CD>165 PICF-CD>0

RET-RECVD-DT>07/26/1995 ⑩ XREF-DLN>492177321200007
CAF-IND>1 ⑪ DELQ-RET-IND>1 RET-PSTNG-YR>1995 UPDT-CD>E PR-UPDT-CD>E
⑫ AIMS-SER-NUM>072006212 ⑭ TC-424-CD>2

NM-LN-YR>1993 ⑬ PRIMARY-NM-LN>
CONTINUATION-OF-PRIMARY-NAME>
STREET>
CITY> STATE> ZIP>
SC>49 MSC



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

March 2, 2004

Dear Mr.

This letter is in response to your Freedom of Information Act request dated January 2, 2004 and received in our office February 24, 2004, seeking documents maintained in our lien file for your account for the tax years 1995 through 2002.

Enclosed are the documents responsive to your requests, 2 pages.

If you have any questions, please contact Diana Church, Badge # 62-11227, Disclosure Specialist, of my staff at (615) 250-5583 or 801 Broadway, MDP 44, Nashville, TN 37203. Your case number is

Sincerely,

A handwritten signature in cursive script that reads "Tim D. Christian".

Tim D. Christian (Badge # 62-09241)
Nashville Disclosure Officer
Governmental Liaison and Disclosure

Enclosure

INTERNAL REVENUE SERVICE
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Recording Number:
UCC Number :
Liber :
Page :

Area: SMALL BUSINESS/SELF EMPLOYED #8
Home Unit Phone: (800)

IRS Serial Number: 15315

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :

Residence :

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/1997		11/23/1998	12/23/2008	44958.59

Filed at: Register of Deeds

Total	\$ 44958.59
-------	-------------

This notice was prepared and executed at NASHVILLE, TN
on this, the 23rd day of January, 2004.

Authorizing Official:
E RAVENAL
(800)

Title:
ACS
13-00-0000

INTERNAL REVENUE SERVICE
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Recording Number:
UCC Number :
Liber :
Page :

Area: SMALL BUSINESS/SELF EMPLOYED #8
Lien Unit Phone: (800)

IRS Serial Number: 1531

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :

Residence :

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balan (f)
1040	12/31/1999		06/23/2003	07/23/2013	18234.4
1040	12/31/2000		06/23/2003	07/23/2013	17110.7

Filed at: Register of Deeds

Total \$ 35345.

This notice was prepared and executed at NASHVILLE, TN
on this, the 23rd day of January, 2004.

Authorizing Official:
E RAVENAL
(800)

Title:
ACS 13-00-000

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED DECEMBER 22, 2003

27 CFR - CHAPTER I - PART 70

View Part

§ 70.81 Notice and demand for tax.

(a) *General rule.* Where it is not otherwise provided by provisions of 26 U.S.C. enforced and administered by the Bureau, the appropriate ATF officer shall, after the making of an assessment of a tax pursuant to § 70.71 of this part, give notice to each person liable for the unpaid tax, stating the basis for the tax due, the amount of tax, interest, additional amounts, additions to the tax and assessable penalties, and demanding payment thereof. Such notice shall be given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. 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.

(b) *Assessment prior to last date for payment.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay. (26 U.S.C. 6303 and 7521)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

<http://www.access.gpo.gov/ecfr><http://www.access.gpo.gov/ecfr>

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED DECEMBER 22, 2003

27 CFR - CHAPTER I - PART 70

[View Part](#)

§ 70.148 Place for filing notice; form.

(a) *Place for filing.* The notice of lien referred to in § 70.145 of this part shall be filed as follows:

(1) *Under State laws -- (i) Real property.* In the case of real property, notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(1) of this section.

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, the notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provision of paragraph (b)(2) of this section, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

(2) *With the clerk of the United States district court.* Whenever a State has not by law designated one office which meets the requirements of paragraph (a)(1) (i) or (ii) of this section, the notice shall be filed in the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is deemed situated under the provisions of paragraph (b) of this section. For example, a State has not by law designated one office meeting the requirements of paragraph (a)(1)(i) of this section, if more than one office is designated within the State, county, or other governmental subdivision for filing notices with respect to all property located in such State, county or other governmental subdivision. A State has not by law designated one office meeting the requirements of paragraph (a)(1)(ii) of this section, if more than one office is designated in the State, county, or other governmental subdivision for filing notices with respect to all of the personal property of a particular taxpayer.

(3) *With the Recorder of Deeds of the District of Columbia.* If the property subject to the lien imposed by 26 U.S.C. 6321 is deemed situated, under the provision of paragraph (b) of this section, in the District of Columbia, the notice shall be filed in the office of the Recorder of Deeds of the District of Columbia.

(b) *Situs of property subject to lien.* For purposes of paragraph (a) of this section, property is deemed situated as follows:

(1) *Real property.* Real property is deemed situated at its physical location.

(2) *Personal property.* Personal property, whether tangible or intangible, is deemed situated at the residence of the taxpayer at the time the notice of lien is filed. For purposes of paragraph (b)(2) of this section, the residence of a corporation or partnership is deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is not within the United States is deemed to be in the District of Columbia.

(c) *Form -- (1) In general.* The notice referred to in § 70.145 of this part shall be filed on ATF Form 5651.2, "Notice of Federal Tax Lien under Internal Revenue Laws". Such notice is valid notwithstanding any other provision of law regarding the form or content of a notice of lien. For example, omission from the notice of lien of a description of the property subject to the lien does not affect the validity thereof even though State law may require that the notices contain a description of the property subject to the lien.

(2) *ATF Form 5651.2 defined.* The term "ATF Form 5651.2" generally means a paper form. However, if a State in which a notice referred to in § 70.145 of this part is filed permits a notice of Federal tax lien to be filed by the use of an electronic or magnetic medium the term "ATF Form 5651.2" includes an ATF Form 5651.2 filed by the use of any electronic or magnetic medium permitted by that State. An ATF Form 5651.2 must identify the taxpayer, the tax

liability giving rise to the lien, and the date the assessment arose regardless of the method used to file the notice of Federal tax lien. (26 U.S.C. 6323)

<http://www.access.gpo.gov/ecfr><http://www.access.gpo.gov/ecfr>

Letter 2050

- A. If you have received this notice, it means you owe tax and have ignored previous notices CP-504 or CP-523 or you have delinquent tax returns. You may receive this notice even if you have made arrangements to make installment payments or you have been placed in a "hardship" status. If this is the case, call the number on the notice immediately and advise them. Be sure to write down the name and badge number of the person you speak to as well as the date and time of the call.
- B. The top right of the notice will indicate the date of the notice, the primary social security number, or employer ID, and the number to call. The notice will indicate that you have ten days to respond. The second page of the notice will describe the type of tax and tax period(s) involved. If you have filed but not paid taxes, it will also show any interest and penalties accrued since your last notice.
- C. If you agree with the amount but are unable to pay it all right now there are several options. If you owe no other tax, the amount due is less than \$25,000, and you can pay the balance off in 60 months or less -- call the number listed on the notice and make arrangements with them. You can specify the day of the month you want to make payments. You are advised to pay it off as soon as possible, however, you may ask them what the minimum payment is to pay off the balance in 60 months. If the amount is more than you can handle or the technician refuses to give you that option - select one of the options below.
- D. One caution -- if the taxes are 941 (payroll) taxes from your employee's withholding, you have a very different problem and you may want to seek professional help as soon as possible, unless you are in a position to pay the liability within 30 days.
- E. If you ignore this notice, the IRS could file returns for you or summons you to appear before them with all your books and records.

Department of the Treasury
Internal Revenue Service
P.O. BOX 145566
CINCINNATI, OHIO 45214

Date:
JAN. 22, 2001

Taxpayer Identifying Number:
N 01

Contact Telephone Number:
TOLL FREE: 1-800-829-3903
MON. THRU FRI. 8:00AM TO 8:00PM

Please Call Us About Your Overdue Taxes or Tax Returns

We have no record that you responded to our previous notices. As a result, your account has been assigned to this office for enforcement action, which could include seizing your wages or property. It's important that we hear from you within 10 days from the date of this letter.

IF YOU AREN'T ABLE TO PAY YOUR OVERDUE AMOUNT IN FULL, please call at one of the telephone numbers listed above. Be ready to tell us what your monthly income and expenses are so we can help you arrange a payment plan.

IF YOU CAN FILE YOUR RETURN WITH FULL PAYMENT, mail it to reach us within 10 days from the date of this letter. IF YOU CAN'T FILE YOUR RETURN WITHIN 10 DAYS, please call one of the telephone numbers listed above. To help us determine if you need to file, be ready to provide us with your filing information. For an individual return, this should include your income, filing status, and total federal taxes withheld. For a business return, this should include wages paid, number of employees, and FTDs made for payroll.

IF YOU WOULD LIKE SOMEONE ELSE to call us for you, we must have a signed statement from you allowing us to disclose your tax information to this person. You should make your statement on Form 2848, Power of Attorney and Declaration of Representative, which you can get from any IRS office. You must send us a copy of the completed form before your representative calls.


Chief, Automated Collection Branch

Enclosures:
Copy of this letter
Envelope



Date:
OCT. 10, 2000

Taxpayer Identifying Number:
N 00

Contact Telephone Number:
TOLL FREE: 1-800-829-3900
BEST TIME TO CALL:
8:00 AM TO 4:30 PM
MONDAY THUR FRIDAY

Department of the Treasury
Internal Revenue Service
P.O. BOX 57
BENSALEM, PA. 19020

Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing Please Respond Immediately


You have not paid your federal tax. We previously asked you to pay but we still haven't received full payment. This letter is your notice of our intent to levy under Internal Revenue Code Section (IRC) 6331 and your notice of a right to receive Appeals consideration under IRC 6330. PLEASE CALL US IMMEDIATELY at one of the telephone numbers shown above if you recently made a payment or can't pay the amount you owe.

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

If you don't pay this amount, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this letter, we may take your property or rights to property such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income to collect the amount you owe. See the enclosed Publication 594, Understanding the Collection Process, for additional information about this and see Publication 1660 which explains your right to a hearing. The enclosed Form 12153 is used to request a hearing.

To prevent enforced collection actions, please send us full payment today for the amount you owe shown on the back of this letter. Make your check or money order payable to the United States Treasury. Write your social security number or employer identification number and the tax year on your payment. Send your payment in the enclosed envelope with a copy of this letter.

Enclosures:
Copy of letter
Form 12153
Publication 594
Publication 1660
Envelope


Chief, Automated Collection Branch



Letter 1058 (Rev. 01-1999)XLT-



Department of the Treasury

Letter Date: 04/13/2004

CERTIFIED MAIL 7115

Internal Revenue Service

Taxpayer Identification Number:

Person to Contact:

DENISE BRADLEY

Contact Identification Number:

14-

Contact Telephone Number:

(800) 829-

Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320

We filed a Notice of Federal Tax Lien on 04/08/2004 because our records show the following:

Type of Tax	Tax Period	Amount Owed
1040	12/31/1996	9643.02
1040	12/31/1999	51179.98
6702	12/31/1997	500.00



forms not type of tax

The lien attaches to all property you currently own and to all property you may acquire in the future. It may also damage your credit rating and hinder your ability to obtain additional credit.

You have a right to request a hearing with us to appeal this collection action and to discuss your payment method options. To explain the different collection appeal procedures available to you, we've enclosed Publication 1660, Collection Appeal Rights.

If you want to request a hearing, please complete the enclosed form 12153, Request for a Collection Due Process Hearing, and mail it to:

Internal Revenue Service
IRS-ACS/CDP STOP 5027, Attn CDP1
PO Box 219420
KANSAS CITY, MO 64121-9420

You must request your hearing by 05/17/2004.

We'll issue a Certificate of Release of the Federal Tax Lien within 30 days after you pay the full amount owed. To get your current balance, contact the person whose name and telephone appear at the top of this letter.



We'll also release the lien within 30 days after we accept a bond guaranteeing payment of the amount owed or after we adjust your account based on the decision of your requested hearing. We enclosed Publication 1450, *Instructions on Requesting a Certificate of Release of Federal Tax Lien*.

If you have any questions, please contact the person whose name and telephone number appear at the top of this letter.

Sincerely,



Compliance Technical Support
Territory Manager

Enclosures:

Publication 1, *Your Rights as a Taxpayer*

Publication 1450, *Instructions on Requesting A Certificate of Release of Federal Tax Lien*

Publication 1660, *Collection Appeal Rights*

Form 668 (Y) (c), *Notice of Federal Tax Lien*

Form 12153, *Request for a Collection Due Process Hearing*

Form 668 (Y)(c)

(Rev. February 2004)

1C

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

Area:
WAGE & INVESTMENT AREA #4
Lien Unit Phone: (800)

Serial Number

1671

For Optional Use by Recording Office

As provided by section 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.

- This Notice of Federal Tax Lien has been filed as a matter of public record.
- IRS will continue to charge penalty and interest until you satisfy the amount you owe.
- Contact the Area Office Collection Function for information on the amount you must pay before we can release this lien.
- See the back of this page for an explanation of your Administrative Appeal rights.

Name of Taxpayer

Residence

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the 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).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1996		05/01/1999	05/31/2009	9643.02
1040	12/31/1999		02/24/2003	03/26/2013	51179.98
6702	12/31/1997		02/04/2002	03/05/2012	500.00

Place of Filing

REGISTER OF DEEDS-REAL PROPERTY
COUNTY

Total \$ 61323.00

This notice was prepared and signed at DETROIT, MI, on this,

the _____ day of April, 2004.

Signature

for DENISE BRADLEY

Bonnie Safford

Title
ACS
(800)

14-00-



TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter O > PART III > Sec. 1040.

[Prev](#) | [Next](#)

Sec. 1040. - Transfer of certain farm, etc., real property

(a) General rule

If the executor of the estate of any decedent transfers to a qualified heir (within the meaning of section 2032A (e)(1)) any property with respect to which an election was made under section 2032A, then gain on such transfer shall be recognized to the estate only to the extent that, on the date of such transfer, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

(b) Similar rule for certain trusts

To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where the trustee of a trust (any portion of which is included in the gross estate of the decedent) transfers property with respect to which an election was made under section 2032A.

(c) Basis of property acquired in transfer described in subsection (a) or (b)

(a)

or

(b)

The basis of property acquired in a transfer with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the transfer increased by the amount of the gain recognized to the estate or trust on the transfer

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LII

legal information institute

US CODE COLLECTION

[collection home](#)[search](#)[TITLE 26](#) > [Subtitle B](#) > [CHAPTER 11](#) > [Subchapter A](#) > [PART III](#) > [Sec. 2032A.](#)[Prev](#) | [Next](#)**Sec. 2032A. - Valuation of certain farm, etc., real property****(a)** Value based on use under which property qualifies**(1)** General rule

If -

(A)

the decedent was (at the time of his death) a citizen or resident of the United States, and

(B)

the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

(2) Limitation on aggregate reduction in fair market value

The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed \$750,000.

(3) Inflation adjustment

In the case of estates of decedents dying in a calendar year after 1998, the \$750,000 amount contained in paragraph (2) shall be increased by an amount equal to -

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[Topical references](#)

(A)

\$750,000, multiplied by

(B)

the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting "calendar year 1997" for "calendar year 1992" in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the next lowest multiple of \$10,000.

(b) Qualified real property**(1) In general**

For purposes of this section, the term "qualified real property" means real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family, but only if -

(A)

50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which -

(i)

on the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family, and

(ii)

was acquired from or passed from the decedent to a qualified heir of the decedent.

(B)

25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

(C)

during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which -

(i)

such real property was owned by the decedent or a member of the decedent's family and used for a qualified use by the decedent or a member of the decedent's family, and

(ii)

there was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business, and

(D)

such real property is designated in the agreement referred to in subsection (d)(2).

(2) Qualified use

For purposes of this section, the term "qualified use" means the devotion of the property to any of the following:

(A)

use as a farm for farming purposes, or

(B)

use in a trade or business other than the trade or business of farming.

(3) Adjusted value

For purposes of paragraph (1), the term "adjusted value" means -

(A)

in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

(B)

in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

(4) Decedents who are retired or disabled

(A) In general

If, on the date of the decedent's death, the requirements of paragraph (1)(C)(ii) with respect to the decedent for any property are not met, and the decedent -

(i)

was receiving old-age benefits under title II of the Social Security Act for a continuous period ending on such date, or

(ii)

was disabled for a continuous period ending on such date,

then paragraph (1)(C)(ii) shall be applied with respect to such property by substituting "the date on which the longer of such continuous periods began" for "the date of the decedent's death" in paragraph (1)(C).

(B) Disabled defined

For purposes of subparagraph (A), an individual shall be disabled if such individual has a mental or physical impairment which renders him unable to materially participate in the operation of the farm or other business.

(C) Coordination with recapture

For purposes of subsection (c)(6)(B)(i), if the requirements of paragraph (1)(C)(ii) are met with respect to any decedent by reason of subparagraph (A), the period ending on the date on which the continuous period taken into account under subparagraph (A) began shall be treated as the period immediately before the decedent's death.

(5) Special rules for surviving spouses**(A) In general**

If property is qualified real property with respect to a decedent (hereinafter in this paragraph referred to as the "first decedent") and such property was acquired from or passed from the first decedent to the surviving spouse of the first decedent, for purposes of applying this subsection and subsection (c) in the case of the estate of such surviving spouse, active management of the farm or other business by the surviving spouse shall be treated as material participation by such surviving spouse in the operation of such farm or business.

(B) Special rule

For the purposes of subparagraph (A), the determination of whether property is qualified real property with respect to the first decedent shall be made without regard to subparagraph (D) of paragraph (1) and without regard to whether an election under this section was made.

(C) Coordination with paragraph (4)

In any case in which to do so will enable the requirements of paragraph (1)(C)(ii) to be met with respect to the surviving spouse, this subsection and subsection (c) shall be applied by taking into account any application of paragraph (4).

(c) Tax treatment of dispositions and failures to use for qualified use**(1) Imposition of additional estate tax**

If, within 10 years after the decedent's death and before the death of the qualified heir -

(A)

the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

(B)

the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,

then, there is hereby imposed an additional estate tax.

(2) Amount of additional tax**(A) In general**

The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of -

(i)

the adjusted tax difference attributable to such interest, or

(ii)

the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market

value of the interest) over the value of the interest determined under subsection (a).

(B) Adjusted tax difference attributable to interest

For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as -

(i)

the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

(ii)

a similar excess determined for all qualified real property.

(C) Adjusted tax difference with respect to the estate

For purposes of subparagraph (B), the term "adjusted tax difference with respect to the estate" means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term "estate tax liability" means the tax imposed by section 2001 reduced by the credits allowable against such tax.

(D) Partial dispositions

For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion -

(i)

the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and

(ii)

the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving

portions of such interest.

(E) Special rule for disposition of timber

In the case of qualified woodland to which an election under subsection (e)(13)(A) applies, if the qualified heir disposes of (or severs) any standing timber on such qualified woodland -

(i)

such disposition (or severance) shall be treated as a disposition of a portion of the interest of the qualified heir in such property, and

(ii)

the amount of the additional tax imposed by paragraph (1) with respect to such disposition shall be an amount equal to the lesser of -

(I)

the amount realized on such disposition (or, in any case other than a sale or exchange at arm's length, the fair market value of the portion of the interest disposed or severed), or

(II)

the amount of additional tax determined under this paragraph (without regard to this subparagraph) if the entire interest of the qualified heir in the qualified woodland had been disposed of, less the sum of the amount of the additional tax imposed with respect to all prior transactions involving such woodland to which this subparagraph applied.

For purposes of the preceding sentence, the disposition of a right to sever shall be treated as the disposition of the standing timber. The amount of additional tax imposed under paragraph (1) in any case in which a qualified heir disposes of his entire interest in the qualified woodland shall be reduced by any amount determined under this subparagraph with respect to such woodland.

(3) Only 1 additional tax imposed with respect to any 1 portion

In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or (A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

(4) Due date

The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

(5) Liability for tax; furnishing of bond

The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e)(11).

(6) Cessation of qualified use

For purposes of paragraph (1)(B), real property shall cease to be used for the qualified use if -

(A)

such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the property qualified under subsection (b), or

(B)

during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating more than 3 years during which -

(i)

in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

(ii)

in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

(7) Special rules**(A) No tax if use begins within 2 years**

If the date on which the qualified heir begins to use the qualified real property (hereinafter in this subparagraph referred to as the commencement

date) is before the date 2 years after the decedent's death -

(i)

no tax shall be imposed under paragraph (1) by reason of the failure by the qualified heir to so use such property before the commencement date, and

(ii)

the 10-year period under paragraph (1) shall be extended by the period after the decedent's death and before the commencement date.

(B) Active management by eligible qualified heir treated as material participation

For purposes of paragraph (6)(B)(ii), the active management of a farm or other business by -

(i)

an eligible qualified heir, or

(ii)

a fiduciary of an eligible qualified heir described in clause (ii) or (iii) of subparagraph (C),

shall be treated as material participation by such eligible qualified heir in the operation of such farm or business. In the case of an eligible qualified heir described in clause (ii), (iii), or (iv) of subparagraph (C), the preceding sentence shall apply only during periods during which such heir meets the requirements of such clause.

(C) Eligible qualified heir

For purposes of this paragraph, the term "eligible qualified heir" means a qualified heir who -

(i)

is the surviving spouse of the decedent,

(ii)

has not attained the age of 21,

(iii)

is disabled (within the meaning of subsection (b) (4)(B)), or

(iv)

is a student.

(D) Student

For purposes of subparagraph (C), an individual shall be treated as a student with respect to periods during any calendar year if (and only if) such individual is a student (within the meaning of section 151(c)(4)) for such calendar year.

(E) Certain rents treated as qualified use

For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.

(8) Qualified conservation contribution is not a disposition

A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).

(d) Election; agreement

(1) Election

The election under this section shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

(2) Agreement

The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

(3) Modification of election and agreement to be permitted

The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but -

(A)

the notice of election, as filed, does not contain all required information, or

(B)

signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.

(e) Definitions; special rules

For purposes of this section -

(1) Qualified heir

The term "qualified heir" means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

(2) Member of family

The term "member of the family" means, with respect to any individual, only -

(A)

an ancestor of such individual,

(B)

the spouse of such individual,

(C)

a lineal descendant of such individual, of such individual's spouse, or of a parent of such individual, or

(D)

the spouse of any lineal descendant described in subparagraph (C).

For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the

Warning!!! COLLECTION DUE PROCESS HEARING

It has come to our attention that there are groups and people telling others not to respond to IRS Letter 1058, from the Automated Collection System.

This letter will start out saying:

“CALL IMMEDIATELY TO PREVENT PROPERTY LOSS FINAL NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING”

Why they would do this, we have no clue. We have heard that some of them use the reasoning that if you respond you are then admitting that you are a “taxpayer”.

We encounter people who listened to this bad advice and never responded to the 1058 Letter and then have been liened or levied. Most of these people have never done any of the many FOIA requests that should have been done. Many have not rebutted the notices from the IRS, or if they did it was only superficial, and they did not send their rebuttals to all the necessary addresses.

Then there are people who had some one tell them not to pick up any registered letters from the IRS. They have no clue as to what was sent to them. Most of these people have never sent in a simple one page FOIA request with a 37-cent stamp. NOTE: Do not send in a FOIA request asking for a number of different records on a single FOIA request. We know that there a number of people and groups who will tell you to do that. Those who tell or show you how to do it that way do not understand the real FOIA process.

With the 1058 Letter you will find an “ACCOUNT SUMMARY” which in the first column says “Type of Tax” then below it lists a 1040, 1040A or CIVPEN. The 1040 Form is not a “Type of Tax” but 26 USC sec. 1040 of the Code is a “Type of Tax”. This section of the IRC is section 1040(a), which will refer you to 26 USC 2032A, which is also a “Type of Tax”.

In order to respond to this 1058 Letter you do not need to run to a CPA or TAX ATTORNEY unless you feel compelled to do so. Some times they will send you a 12153 FORM which is a “REQUEST FOR A

COLLECTION DUE PROCESS HEARING”. If they have not enclosed the 12153 FORM go to www.irs.gov web page and where you see the space in the upper left side of the opening page where it says FORM. Type in 12153, go to the listing, click on FORM 12153, and download it. Then, fill it out, check the box Lien or Levy. Under the box(s) you checked, type in “MATHEMATICALLY INCORRECT”. Make sure you send it in within 30 days of the date of the 1058 Letter. They are very strict on the 30 day time period.

If your spouse is also listed with you or receives a separate 1058 Letter then they must also request a hearing.

REMEMBER: All you are doing is requesting a hearing. This is not the time to try to put in an argument like some people and groups have told people to do.

After you request a hearing, it could be ten days to never, that you receive a reply. Sometimes the first reply will say “Your request has been forwarded to “so and so in Appeals” and you will be contacted in so many days- usually 45.

This is not the time to be sitting on you hands. Start collecting all your documents and FOIA replies and put them in order. Any other FOIAs you need to get done should be mailed to the Disclosure Office.

When they first started doing these hearings they would meet you face to face at their office, and, with a ten-day notice you could bring a court reporter with you. Then, they stopped allowing the court reporter. And now they have just about stopped meetings face to face. Now, they attempt to have the meeting by phone usually lasting 5 to 10 minutes. You may want to request a correspondence hearing generally if you do not want to go the phone route. The phone hearing does not create a record or protect any of your rights.

You will have 10-days prior to the phone call to send your evidence to them that you wish to discuss and have put in the record.

Now this becomes a three-step process:

A. Getting your evidence together and making two copies, one for you

and one to send in before the 10-days of the actual schedule date of the hearing.

- B. As soon as the hearing is over, “A NOTICE OF DETERMATION THAT YOU PREVAILED IN THE HEARING” needs to go in ASAP before they can get a letter out to you. Make sure a copy of all the documents that you first sent in 10-days prior to the hearing are ANNEXED to your NOTICE. Many people who have done this did not get any return follow up letters from the IRS. But, do not count on it, be ready for the next letter from them.
- C. If they send you a letter saying that the Appeals Officer has reviewed all the IRS files they have concerning you and that the IRS has followed all the administrative procedures correctly and have put you in default which will usually be a 4 or 5 page letter which he will sign. Now at last you have a good live signature of someone that every thing that the IRS has done is correct. You now send this person a request for all the documents that were necessary in the first place to have a proper assessment, and all the documents that were necessary to have a valid penalty or interest. Where are those signed certified documents? Send him a request asking for all those documents by name, since he has said in his notice to you that he has reviewed them. If you should ever wind up in court the agent would be someone that you would want to bring in with all those documents.

For more information on the Collection Due Process Hearing, you can obtain our “March/April 2003 Collection Due Process Hearing Dispatch”. It contains 218 pages and a 90-minute cassette tape.

Send 45.00 (special price) Cash or Blank (leave “pay to” or “pay to the order of” blank) Postal Money order to: VIPL, 5904 Vine Street, Cincinnati, Ohio 45216.

Where to File Your Request

It is important that you file your request using the address shown on your lien or levy notice. If you have been working with a specific IRS employee on your case, you should file the request with that employee.

How to Complete Form 12153

1. Enter your full name and address. If the tax liability is owed jointly by a husband and wife, and both wish to request a Collection Due Process Hearing, show both names.
2. Enter a daytime telephone number where we can contact you regarding your request for a hearing.
3. List the type(s) of tax or the number of the tax form(s) for which you are requesting a hearing (e.g. Form 1040, Form 941, Trust Fund Recovery Penalty, etc.).
4. List the taxable periods for the type(s) of tax or the tax form(s) that you listed for item 3 above (e.g., year ending 12-31-98, quarter ending 3-31-98).
5. Show the social security number of the individual(s) and/or the employer identification number of the business(s) that are requesting a hearing.
6. Check the IRS action(s) that you do not agree with (Filed Notice of Federal Tax Lien and/or Notice of Levy/Seizure). You may check both actions if applicable.
7. Provide the specific reason(s) why you do not agree with the filing of the Notice of Federal Tax Lien or the proposed Notice of Levy/Seizure action. One specific issue that you may raise at the hearing is whether income taxes should be abated because you believe that your spouse or former spouse should be responsible for all or a portion of the tax liability from your tax return. You must, however, elect such relief. You can do this by checking the indicated box and attaching Form 8857 to this request for a hearing. If you previously filed Form 8857, please indicate when and with whom you filed the Form.
8. You, or your authorized representative, must sign the Form 12153. If the tax liability is joint and both spouses are requesting a hearing, both spouses, or their authorized representative(s), must sign.
9. It is important that you understand that we are required by statute to suspend the statutory period for collection during a Collection Due Process Hearing.

Request for a Collection Due Process Hearing

Use this form to request a hearing with the IRS Office of Appeals only when you receive a **Notice of Federal Tax Lien Filing & Your Right To A Hearing Under IRC 6320**, a **Final Notice - Notice Of Intent to Levy & Your Notice Of a Right To A Hearing**, or a **Notice of Jeopardy Levy and Right of Appeal**. Complete this form and send it to the address shown on your lien or levy notice for expeditious handling. Include a copy of your lien or levy notice(s) to ensure proper handling of your request.

(Print) Taxpayer Name(s): _____

(Print) Address: _____

Daytime Telephone Number: _____ Type of Tax/Tax Form Number(s): _____

Taxable Period(s): _____

Social Security Number/Employer Identification Number(s): _____

Check the IRS action(s) that you do not agree with. Provide specific reasons why you don't agree. If you believe that your spouse or former spouse should be responsible for all or a portion of the tax liability from your tax return, check here [] and attach Form 8857, Request for Innocent Spouse Relief, to this request.

Filed Notice of Federal Tax Lien (Explain why you don't agree. Use extra sheets if necessary.)

Notice of Levy/Seizure (Explain why you don't agree. Use extra sheets if necessary.)

I/we understand that the statutory period of limitations for collection is suspended during the Collection Due Process Hearing and any subsequent judicial review.

Taxpayer's or Authorized Representative's Signature and Date: _____

Taxpayer's or Authorized Representative's Signature and Date: _____

IRS Use Only:

IRS Employee (Print): _____ IRS Received Date: _____

Employee Telephone Number: _____

WORK PAPERS

INSTANT PHRASES FOR BUREAUCRATS

This Systematic Bureaucratic Phrase Projector is a handy tool which will enable you to produce governmental gobble-de-gook easily and instantly.

<u>COLUMN 1</u>	<u>COLUMN 2</u>	<u>COLUMN 3</u>
0 integrated	0 management	0 options
1 total	1 organizational	1 flexibility
2 systematized	2 monitored	2 capability
3 parallel	3 reciprocal	3 mobility
4 functional	4 digital	4 programming
5 responsive	5 logistical	5 concept
6 optional	6 transitional	6 time-phase
7 synchronized	7 incremental	7 projection
8 compatible	8 third-generation	8 hardware
9 balanced	9 optimal	9 contingency

It works like this. Think of any three-digit number, then select the corresponding word from each column. For instance, number 257 yields "systematized logistical projection." a phrase which can be dropped confidently into any report or memorandum. It means absolutely nothing, yet rings with knowledgeable authority. Nobody will have the faintest idea what you are saying, but nobody will dare admit it.

(Inventor of the Phrase Projector is Phillip Broughton, a 63 year old employee of the U.S. Public Health Service.)

Examination Workpapers

Taxpayer's name, address, SSN		Date 07/18/2003	Year(s) 2001												
		Examiner KENT, L	Grade 07												
		Taxpayer(s) Home Phone	Work Phone												
Reviewer															
A.	Initial Interview 1. Examination technique: <input type="checkbox"/> Undeliverable mail <input type="checkbox"/> Correspondence <input type="checkbox"/> Interview with: <input type="checkbox"/> No Show	Representative – Power of Attorney <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Name													
	2. Receipt of Publication 1 <input type="checkbox"/> 3. Appeal rights and Privacy Act explained <input type="checkbox"/> 4. Innocent spouse (Pub. 971) <input type="checkbox"/> 5. Continue on Form 4700-A, B or C	B. Closed No Change Issue: <input type="checkbox"/> Letter 590 <input type="checkbox"/> Letter 1156 <input type="checkbox"/> Other Examiner													
EQMS Auditing Standards (Rev. 5/95) – IRM Exhibit 4910 -1															
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> 1. Consideration of Large, Unusual, or Questionable items 2. Probes for Unreported Income 3. Required Filing Checks 4. Examination Depth and Records Examined 5. Continue on Form 4700-A, B or C </td> <td style="width: 50%; border: none;"> 6. Penalties Properly Considered 7. Workpapers Support Conclusions 8. Report Writing Procedures Followed 9. Time Span/Time Charged </td> </tr> </table>				1. Consideration of Large, Unusual, or Questionable items 2. Probes for Unreported Income 3. Required Filing Checks 4. Examination Depth and Records Examined 5. Continue on Form 4700-A, B or C	6. Penalties Properly Considered 7. Workpapers Support Conclusions 8. Report Writing Procedures Followed 9. Time Span/Time Charged										
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C. Was consideration given to all applicable auditing standards? YES If no, indicate the standard(s) not given consideration, and the reasons why consideration was not given:															
Service Center Tax Examiners – Refer to Center Examination Quality Measurement System (CEQMS) Auditing Standards in IRM Exhibit 4010-2															
Examination Reminders		Case Processing Reminders													
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> D. 1. Proforma Worksheets utilized where applicable 2. Alternative minimum tax 3. Inspection of prior and subsequent year return, IRM 4215 4. Probe for unreported deductions and credits 5. Scope of Examination, IRM 4253.2 6. Automatic adjustments resulting from AGI change(s) 7. "Burned Out" Tax Shelters – IRM 4236(13) 8. Amounts claimed for See/Special Fuels – IRC 6426/6421 9. Health Care Continuation Coverage Under COBRA-IRC 49908 </td> <td style="width: 50%; border: none;"> 1. Claim Case – Forms 2297 and 3363 2. Information Reports (IRM 4219) – Form 5346 3. FICA, Self-Employment or Tip Income Adjustments Forms 885-E, 885-F, and 885T 4. Inequities, Abuses, Loopholes – Form 3558 5. Inadequate Records Notices (IRM 4271) 6. Special Handling Notice 3198 </td> </tr> </table>				D. 1. Proforma Worksheets utilized where applicable 2. Alternative minimum tax 3. Inspection of prior and subsequent year return, IRM 4215 4. Probe for unreported deductions and credits 5. Scope of Examination, IRM 4253.2 6. Automatic adjustments resulting from AGI change(s) 7. "Burned Out" Tax Shelters – IRM 4236(13) 8. Amounts claimed for See/Special Fuels – IRC 6426/6421 9. Health Care Continuation Coverage Under COBRA-IRC 49908	1. Claim Case – Forms 2297 and 3363 2. Information Reports (IRM 4219) – Form 5346 3. FICA, Self-Employment or Tip Income Adjustments Forms 885-E, 885-F, and 885T 4. Inequities, Abuses, Loopholes – Form 3558 5. Inadequate Records Notices (IRM 4271) 6. Special Handling Notice 3198										
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Required Filing Checks – IRM 4034															
<table style="width: 100%; border: none;"> <tr> <td style="width: 45%;"></td> <td colspan="3" style="text-align: center; border-bottom: 1px solid black;">CHECK COMPLETED</td> <td colspan="2" style="text-align: center; border-bottom: 1px solid black;">COMMENT IN:</td> </tr> <tr> <td></td> <td style="text-align: center; border-bottom: 1px solid black;">YES</td> <td style="text-align: center; border-bottom: 1px solid black;">NO</td> <td style="text-align: center; border-bottom: 1px solid black;">N/A</td> <td style="text-align: center; border-bottom: 1px solid black;">F4700 SUPPLEMENT</td> <td style="text-align: center; border-bottom: 1px solid black;">F4700 BUSINESS SUPPLEMENT</td> </tr> </table>					CHECK COMPLETED			COMMENT IN:			YES	NO	N/A	F4700 SUPPLEMENT	F4700 BUSINESS SUPPLEMENT
	CHECK COMPLETED			COMMENT IN:											
	YES	NO	N/A	F4700 SUPPLEMENT	F4700 BUSINESS SUPPLEMENT										
E. 1. All Required Returns (of THIS T/P)															
.. Prior															
.. Subsequent															
.. Compliance Items:															
Information Returns															
Questionable W-4's															
Forms 8300															
Any Other Returns															
2. All Related Returns (of ANOTHER T/P)															

Continuation of Examination Workpapers

(Items to be considered, explored, verified)	Tax Period	Per Return	Corrected	Adjustment	WP Index
A CASE HISTORY Pre-Audit: 11/19/02 TP FAILED TO FILE PER COMPLIANCE CHECK. PREPARE REPORT TO ASSESS TAX AND PENALTIES. SEND 1862 LETTER WITH REPORT AND ATTACHMENTS TO MASTERFILE ADDRESS. TO ALTERNATE ADDRESS, (NO POA) AND SUSPEND. 7/18/03 TP SENT FRIV CORRESPONDENCE FROM MF ADDRESS. WILL NOT USE ALT ADDRESS NOW. PUT INTO BATCH. NO NEED TO SEND CE-22 BECAUSE TP WAS SENT SOFT LETTER. SEND CASE 90 DAY TO MF ADDRESS(NO POA). cc NN	200112	\$0.00	\$0.00	\$0.00	
B FILING STATUS Pre-Audit: 11/19/02 MARRIED FILING SEPARATE PER INDICATION OF A SPOUSE.	200112	\$0.00	\$0.00	\$0.00	
C EXEMPTION Pre-Audit: 11/19/02 ALLOWING ONE PERSONAL EXEMPTION.	200112	\$0.00	\$1.00	(\$1.00)	
D SOCIAL SECURITY INCOME Pre-Audit: 11/19/02 INCOME FROM THE SOCIAL SECURITY ADMINISTRATION PER IRP TRANSCRIPT.	200112	\$0.00	\$3,012.00	\$3,012.00	
E SOCIAL SECURITY REPAYMENTS Pre-Audit: 11/19/02 REPAYMENT OF SOCIAL SECURITY INCOME PER IRP TRANSCRIPT.	200112	\$0.00	\$12.00	(\$12.00)	
F INTEREST - FIRST NATIONAL BANK Pre-Audit: 11/19/02 TAXABLE INTEREST INCOME PER IRP TRANSCRIPT.	200112	\$0.00	\$67.00	\$67.00	

Continuation of Examination Workpapers

(Items to be considered, explored, verified)	Tax Period	Per Return	Corrected	Adjustment	WP Index
G GROSS DIST. - PUBLIC SCHOOL TEACHERS PENSION Pre-Audit: 11/19/02 TAXABLE IRA DISTRIBUTIONS PER IRP TRANSCRIPT.	200112	\$0.00	\$1,250.00	\$1,250.00	
H GROSS DIST. - COMPTROLLER STATE OF ILLINOIS Pre-Audit: 11/19/02 TAXABLE IRA DISTRIBUTIONS PER IRP TRANSCRIPT.	200112	\$0.00	\$52,902.00	\$52,902.00	
I GROSS DIST. - VARIABLE ANNUITY LIFE INS. CO. Pre-Audit: 11/19/02 TAXABLE IRA DISTRIBUTIONS PER IRP TRANSCRIPT.	200112	\$0.00	\$4,293.00	\$4,293.00	
J PENALTIES Pre-Audit: 11/19/02 ACCURACY RELATED NOT PROPOSING PER SFR PROCEDURES. ESTIMATED TAX PROPOSING. DELINQUENCY PENALTY PROPOSING. TP FAILED TO FILE RETURN.	200112	\$0.00	\$0.00	\$0.00	
K Statutory-Standard Ded	200112	\$0.00	\$3,800.00	(\$3,800.00)	
L Statutory-Rate Reduction Cr	200112	\$0.00	\$300.00	(\$300.00)	

- EIC DUP TIN NON EIC DUP TIN EIC OTHER NON EIC QRP CI REFFERAL
- EIC 1040X REFUND HOLD FLOW THRU DISCRETIONARY RECERT
- IC RECON NON EIC RECON DO RECON SET SOFT NOTICE IRP
- FUEL TAX EIC PRP NON EIC PRP TEFRA OTHER FRP 306

Correspondence Examination History Sheet 200112

Prepared by (Name / TT*) Tel Ext _____

Day Swing

Taxpayer's Name, Address, SSN, Year _____

Send all correspondence as per POA No POA

POA Name and Address _____

Address Change Alternate Address:

35

Date ENREQ input to Master-file _____

Remarks or Additional Information

SFR 04/EE/05

Penalties

- Apply
- Do not apply
- TC 811 input
- TC 971/43
- NT
- RGS

RA - Response Associated TCB - Telephone Callback TCA - Telephone Call Associate C/A - Close Agreed
 N/C - No Change DFLT - Default REF - Reject AWAR - AIMS Weekly Update Report

Date	Action
<u>11/19/02</u>	<u>Set up SFR per compliance check.</u>
<u>11/19/02</u>	<u>Send 1202 letter, report & attachments to M.F.</u>
	<u>add. alt. add. (NO PIA) & suspend. C417 11/20/02</u>
<u>1-3-03</u>	<u>File mail 2500 C417</u>
<u>7-17-03</u>	<u>Send 90 days^{10h} (C417) 7-21-03 C415</u>
<u>C. BLUMEL 58854</u>	<u>AUG 08 2003 90 days^{10h} LETTER SENT</u>

SFR SCANNING

TAXPAYER		SSN
2001	TAX YEAR	TOTAL IRA DISTRIBUTION (Included in total income)
3	FILING STATUS (1 SINGLE OR 3 MFS)	\$0 IRA distribution subject to 10% t
\$58,445	TOTAL INCOME DO NOT INCLUDE SSA-RRB	ALLOCATED TIPS
\$3,000	SSA-RRB TOTAL	\$0 ALLOCATED TIPS (Included in total income)
\$2,550	SSA-RRB TAXABLE	SELF EMPLOYMENT TAX
\$0	SE AGI DEDUCTION	\$0 TOTAL SE INCOME (INCLUDED IN TOTAL INCOME)
\$6,700	STD DED & EXEMPTION	\$0 X 92.35%
\$54,295	TAXABLE INCOME	\$80,400 MAXIMUM FICA WAGE
\$12,106	TAX	\$0 TOTAL W-2 FICA WAGE & SOCIAL SECURITY TIPS
\$0	SE TAX	\$80,400 LINE 3-LINE 4
\$0	10% IRA TAX	\$0 FICA TAX
\$0	ALLOCATED TIP TAX	\$0 MEDICARE TAX
\$12,106	TOTAL TAX	\$0 TOTAL SE TAX
\$0	WITHHOLDING	\$0 1/2 SE AGI
\$12,106	BALANCE DUE	\$0 A-TIP SS-TAX \$0 A-TIP MEDICARE

IRPTRN 00000 *(TY2001) IRMF ON LINE TRANSCRIPT SYSTEM *
 TIN- TIN TYPE AND VALIDITY- 2 DOCUMENT CODE- 00 PAGE 0002 OF 0005
 DOCUMENT TYPE: 1099-INT ON FILE DATE: 04-30-2002 ORIGINAL SUBMISSION
 PAYEE ENTITY DATA: SSN - VALID SSN
 ESCROW ACCOUNT PYR'S SUBMISSION DLN: 49569505330002
 TRNS CNTL CD: 49105 PYR OFC CD: N/A
 SUBMITTED TO: IRS ON: TAPE
 NO SECOND NOTICE

STATE:
 ACCOUNT NUMBER:
 PAYER ENTITY DATA: EIN

INTEREST.....\$67+

ENTER=(N)EXT, (P)REVIIOUS, (S) UMMARY, (W)HITE OUT, IRPO(L), (O)NLINE, HARD(C)OPY

A - CC TSCLS

E - Long closure

F - Partial closure

P1-6 CC AMCLS E

U - Unpostable

I - IRA

P49-50

E

Examination Closing Record

P7-18 TIN		P21-22 MFT	P24-29 Tax Period	C-Operator Employee No. <u>1-11-787</u>	D-Rej.	
		30	200012	Date <u>05/05/03</u>		
P31-34 Name Control		B-Name		E-Document Locator Number <u>3000</u>	F-Cor.	
				Appeals Office Code	Appeals Section	
Batch Position Indicator (NMF)	P36	Block Number	P38-40	Sequence Number	P45-47	
			00X			
Individual Retirement Account - IRA		01-	0	MFT 29	AIMS / MF Update Data	
Penalty Reason Code		02-	Letter Date	03-	Claim Rejn Date	
Letter Amount		04-		+	& Amount Claimed	
2 Percent Interest Date		05-			Dollars Protected	
& Debit Interest "To" Date		06-			RBP Hours	
& Credit Interest "To" Date		06-			Claim Type	
& Compute Interest Amount		06-		+	Examiner's Time	
& Hold Code		07-	Remarks:			
Agreement Date		08-			Examination Technique	
& Priority Code		09-	<u>0</u>	<u>2</u>	Examiner's Grade	
& Settlement Amount		10-			Grade of Case	
& Interest Computation Date		11-			Examiner's Name: <u>WE D</u>	
# * Tax Penalty and Interest Adjustments	12-	Trans. Co 300	10,751.00 +		Adjustment Amount	
	12-	160	<u>2-13-03</u> 2,687.75 +		Manual Assessment Amount	
	12-	170	574.25 +		# * Hash Total	
	12-				Hash total includes items: P24-29, 12, 15, 18, 21, 22, 23, 28, 34, 35, 44, 46, 52, 402, 403, 404c, 404d, 414, and 415	
	12-				Delinquent Return	
	12-				Fraud	
	12-				& Disclosure Code	
	12-				& Project Code	
# * Disposal Code		13-	10	No Change Issue Codes:		
Statute Extended to Date		14-	05/05/2006	MFT 30 only - Required entry for no change or no change with adjustment cases. Allowable entry for other examined closures		
# * Credits and Tax Computation Adjustments	15-	888	55,036.00 +	41-a.		
	15-	886	48,561.00 +	41-b.		
	15-			41-c.		
	15-			41-d.		
	15-			41-e.		
	15-			Posting Delay Code	43-	1-6 Valid
	15-			I - Reviewer		Date
	15-			J - CATP Case	<input type="checkbox"/> Yes	
15-			K - Tax Examiner	<u>046</u>	Date <u>05/05/2003</u>	

Name:			
Year:	200012	TIN:	

Effective 1/1/2001
Net Rate Interest Netting (BMF Only)

NOL CF Disallowed Amount	44-		.XX +
NOL Indicator	45-		
Credit CF Disallowed Amount	46-		.XX +
Credit Type (Only if disallowed)	47-		

Net Rate MFT/Tax Period	51-		
Net Rate Amount	52-		
Beginning Overlapping Period	53-		
Ending Overlapping Period	54-		

Primary Business Code		Must use AMSOC DC 30	AIMS
Secondary Business Code	49-	00000	Assignee
Employee Group Code	50-	5022	Code
CEP Case Enter L	400-		
Whipsaw Indicator	401-		
International Examiner Time	402-		Percent of Total Time (Item 28)
International Exam Results	403-		Percent of Total Audit Results

FORM 720	a. Abstract Code	b. Disposal Code	c. Abstract Time	d. Abstract Examination Results
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-
404-			10	.XX +-

RELATED RETURN INFORMATION SECTION (Enter data from primary return)			
405 - Primary Return TIN	406 - Prim. Ret. MFT	407 - Prim. Ret. Tax Period	
	30	200012	
Related Return Alpha Code	408-	P	P = Primary Return S = Secondary (Related) Return

Aging ReasonCode	410-	
Payment Code	411-	N
Installment Agreement Code	412-	N
Delinquent Return Amount	414-	.XX +-
Amended Return Amount	415-	.XX +-
Fax'd Agreement	416-	1=FAX'D agreement received For EGC 5XXX use only

* Required entries for partial assessments
Required entries for disposal code 34
& Optional entries for disposal code 34

To Dept. of Revenue

Please send me a copy of any and all document(s) produced by the Governor or his or her delegate that gave express consent and approval to this state's incorporation of the federal income tax laws and regulations as amended from time to time, by agreement with the Internal Revenue Service.

1058 Letter Lien/Levy
12153 Collection Due Process



CDPH



Letter of Determination



Letter 3174(p)
6601
6651(a)(2)



180 Days after 1058 Letter
Lien, Levy, Seizure

Internal Revenue Service
Appeals Office
5338 Montgomery Blvd.
Suite 401
Albuquerque, NM 87109

Date: APR 15 2004

Department of the Treasury

Person to Contact:
Joella M.
Employee ID Number: C
Tel: 505
Fax: 505-

Refer Reply to:
AP:FW:ALB:JMA
SSN/EIN Number:

Tax Type/Form Number:
Federal/1040

In Re:
Collection Due Process Hearing
(Tax Court)

Tax Period(s) Ended:
12/1996 12/1997

Certified Mail 7099 3400 0.

**NOTICE OF DETERMINATION
CONCERNING COLLECTION ACTION(S) UNDER SECTION 6320 and/or 6330**

Dear Mr. :

We have reviewed the taken or proposed collection action for the period(s) shown above. This letter is your Notice of Determination, as required by law. A summary of our determination is stated below. The attached statement shows, in detail, the matters we considered at your Appeals hearing and our conclusions about them.

If you want to dispute this determination in court, you must file a petition with the United States Tax Court for a redetermination within 30 days from the date of this letter.

To get a petition form and the rules for filing a petition, write to: Clerk, United States Tax Court, 400 Second Street, NW, Washington, D.C. 20217, or access the Tax Court website at www.ustaxcourt.gov.

The Tax Court has a simplified procedure for an appeal under section 6330(d)(1)(A) of a determination in which the unpaid tax does not exceed \$50,000. You also can get information about this procedure by writing to the Tax Court, or accessing the Tax Court website at www.ustaxcourt.gov.

The time limit for filing your petition is fixed by law. The courts cannot consider your case if you file late. If the court determines that you filed your petition with the wrong court, you will have 30 days after such determination to file with the correct court.

If you do not petition the court within the time frame provided by law, your case will be returned to the originating IRS office for action consistent with the determination summarized below and described on the attached page(s).

If you have any questions, please contact the person whose name and telephone number are shown above.

Summary of Determination

The Director of the Service Center was correct when he/she determined to serve a levy.

Sincerely,

A handwritten signature in black ink, appearing to read "John".

John
Team Manager

Attachment - Letter 3193, Notice of Determination

The Issue:

(“the taxpayer”) requested a Collection Due Process Hearing under the provisions of **IRC §6330** in response to “Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing,” for Federal income taxes for the periods ending December 31, 1996 and December 31, 1997.

Verification of Legal and Procedural Requirements:

A review of the best information available including the Secretary’s computer records indicates that all legal requirements have been met and all administrative procedures have been followed. The assessments have been properly made and are correct. All required notices have been sent to the taxpayer including the Notice and demand for the balance due as required by **IRC §6303** that was mailed to the taxpayer’s last known address. The Final Notice was mailed to the taxpayer by certified mail – return receipt requested on August 23, 2003. Codes have been input in to the taxpayer’s account (TC 520 CC 77 dated September 10, 2003 to prevent enforced collection action pending the outcome of the taxpayer’s Collection Due Process hearing. The taxpayer did not dispute the finding that all legal requirements have been met and all administrative procedures have been followed other than his frivolous arguments.

Relevant Issues Raised by the Taxpayer and Discussion:

The taxpayer states that the amount due is mathematically incorrect. . The taxpayer raised frivolous arguments only. A copy of “IMF MCC TRANSCRIPT – IMF LITERAL” was provided to the taxpayer showing that the assessments are correct. The taxpayer cannot raise the issues of the amount or the existence of the liabilities for the tax periods 1996 and 1997 tax periods because Notices of Deficiency were mailed to the taxpayer at his last known address (**IRC §6330(c)(2)(B)**). Collection alternatives were not explored with the taxpayer because the taxpayer did not cooperate and provide current financial information. Full payment is the correct resolution.

Balancing the need for the efficient collection of taxes with the legitimate concerns of the taxpayer that any collection action be no more intrusive than necessary:

The Director of the Service Center sent all required notices to the taxpayer including the notice of intent to levy and the taxpayer responded with frivolous arguments.

The taxpayer’s liability as of March 1, 2004 is \$85,946.46 (IMFOLI dated 3/29/2004) for Federal income taxes for the years ending 1996 and 1997. The taxpayer record reflects that 1997 was the last Form 1040 Federal return filed.

This Appeals Officer has had no prior involvement, either in Appeals or Compliance, with this taxpayer concerning the applicable tax periods involved in this CDP case. No spousal issues involved.

The taxpayer was sent correspondence dated February 11, 2004 that set February 26, 2004 at 8:30 A.M. for a telephone hearing. On February 13, 2004, the taxpayer responded that he would prefer a face-to-face conference but that he would agree with a hearing conducted by correspondence. The taxpayer also asked for a copy of the IMF MCC transcript – IM Literal and raised the frivolous argument that a computer transcript does not verify that proper assessment procedures have been followed.

On February 10, 2004 the taxpayer was sent correspondence advising him that he is only entitled to a face-to-face conference if he wants to raise relevant issues. The taxpayer was given a deadline of February 26, 2004 to raise issues in writing for a correspondence hearing, to provide financial information and verification of filing requirements.

The taxpayer responded by correspondence dated February 23, 2004 stating that February 26, 2004 is not possible for a hearing date. The taxpayer requested IMF MCC transcript- IM Literal for 1996 and 1997 and states that he needs a minimum of 30 days to prepare for the hearing. The taxpayer also continues to raise frivolous arguments in his correspondence dated February 23, 2004.

On February 26, 2004, correspondence was sent to the taxpayer that provided the taxpayer a copy of the IMF MCC transcript – IM Literal transcripts for 1996 and 1997. The taxpayer was advised that the proper administrative procedures were followed and legal requirements were met. The taxpayer was asked again to submit in writing those legitimate and valid issues and concerns that the taxpayer wished to raise prior to a face-to-face hearing being allowed. The taxpayer was also given another hearing date of March 17, 2004 at 11:30 A.M.

On March 16, 2004, the taxpayer responded by fax and acknowledged receiving the IMF MCC Transcript-IM Literal. The taxpayer responds in the correspondence that *"There is no indication of a transaction code of 494 in said transcript. A transaction code 494 would indicate that I received a "Statutory Notice of Deficiency. Therefore, I am not precluded from disputing legal, or administrative procedure issues."* The taxpayer responded with a frivolous argument. The taxpayer also responded that he was unable to attend the hearing date set for March 17, 2004 and requested to extend the hearing date on or about April 12, 2004.

More than two attempts were made to accommodate the taxpayer and set hearing dates. The taxpayer did not provide legitimate issues and concerns and is not entitled to a face-to-face hearing based on the frivolous arguments raised. Collection alternatives were not explored with the taxpayer because the taxpayer did not cooperate and provide current financial information. The best collection resolution is full payment of the taxes.

The taxpayer was provided a copy of Form "IMF MCC TRANSCRIPT – IMF LITERAL" for the tax periods 1996 and 1997. For 1996 and 1997 tax periods the Government

issued Notices of Deficiency to the taxpayer and the taxpayer defaulted on the Notices by not filing a petition with the United States Tax Court. After default, the tax, penalty and interest were assessed for the tax periods.

The taxpayer is advised that prior to deciding whether to petition this notice of determination, the taxpayer should know that the Tax Court is empowered to impose monetary sanctions up to \$25,000 for instituting or maintaining an action before it primarily for delay or for taking a position that is frivolous or groundless [Pierson v. Commissioner, 115 T.C. No. 39 (2000)].

The proposed collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concern that the collection action be no more intrusive than necessary. In general, the most efficient collection of taxes and the least intrusive collection action is the voluntary full payment by the taxpayer. The least efficient and most intrusive action is the seizure of the taxpayer's asset(s). All other collection actions fall between those two actions. Before a collection alternative to the proposed collection action can be considered, the taxpayer must cooperate, provide current financial information and be in compliance with filing requirements. **Therefore, it is the determination of the Appeals Office that the Director of the Service Center was correct when he/she determined that a levy should be served.**

TITLE 28
JUDICIAL CODE
AND JUDICIARY
UNITED
STATES
CODE
1940 Edition

TITLE 28.—JUDICIAL CODE AND JUDICIARY

PART I.—JUDICIAL CODE

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Part I.—JUDICIAL CODE

Chapter 1.—DISTRICT COURTS; ORGANIZATION

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§1. (Judicial Code, section 1.) District Courts; judges; appointments and residence.

In each of the districts described in chapter five of this title there shall be a court called a district court, for which there shall be appointed one judge, to be called a district judge, except that in the District of Arizona, the District of Connecticut, the Southern District of Illinois, the Eastern District of Illinois, the Eastern District of Louisiana, the Western District of Louisiana, the District of Maryland, the Eastern District of Missouri, the Western District of Missouri, the District of Montana, the District of Nebraska, the Northern District of New York, the Western District of New York, the District of Oregon, the Middle District of Pennsylvania, the Eastern District of Tennessee, the Southern District of Texas, the Western District of Texas, the Eastern District of Virginia, the Western District of Virginia, and the Western District of Washington there shall be an additional district judge in each; in the Southern District of Florida, the District of Massachusetts, the Northern District of Ohio, the Southern District of Ohio, the Western District of Pennsylvania and the Northern District of Texas, there shall be two additional judges in each; in the Northern District of California, the District of Minnesota, the District of New Jersey, and the Eastern District of Pennsylvania, there shall be three additional judges in each; in the Eastern District of Michigan there shall be four additional judges; in the Northern District of Illinois and the Eastern District of New York there shall be five additional judges in each; in the Southern District of California there shall be seven additional judges; and in the Southern District of New York there shall be eleven additional judges. In addition to those enumerated there shall be one district judge for the Eastern and Western Districts of Arkansas, one district judge for the Eastern and Western Districts of Kentucky, one district judge for the Eastern and Western Districts of Missouri, one district judge for the Northern, Eastern and Western Districts of Oklahoma, one district judge for the Eastern and Western Districts of South Carolina, and one district judge for the Eastern and Western Districts of Washington.

Every district judge shall reside in the district or one of the districts for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor. (Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087 as amended July 30, 1914, ch. 216, 38 Stat. 580 and supplemented Mar. 3, 1915, ch. 100, § 1, 38 Stat. 961; Apr. 11, 1916, ch. 64, § 1, 29

(27) Enforcement of orders of Interstate Commerce Commission.

Twenty-seventh. Of all cases for the enforcement of any order of the Interstate Commerce Commission (Mar. 3, 1911, ch. 231, § 207, 36 Stat. 1148; Oct. 22, 1913, ch. 32, 38 Stat. 219.)

(28) Setting aside order of Interstate Commerce Commission.

Twenty-eighth. Of cases brought to enjoin, set aside, annul or suspend in whole or in part any order of the Interstate Commerce Commission. (Mar. 3, 1911, ch. 231, § 24, pars. 1-25, 36 Stat. 1091-1094; Mar. 3, 1911, ch. 231, § 207, 36 Stat. 1148; Dec. 21, 1911, ch. 5, 37 Stat. 46; Oct. 22, 1913, ch. 32, 38 Stat. 219; Oct. 6, 1917, ch. 97, § 1, 40 Stat. 395; Nov. 23, 1921, ch. 136, § 1310 (c), 42 Stat. 311; June 10, 1922, ch. 216, § 1, 42 Stat. 634; June 2, 1924, 4:01 p. m., ch. 234, § 1025 (c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§ 1122 (c), 1200, 44 Stat. 121, 125; May 8, 1926, ch. 273, §§ 1-3, 44 Stat. 416; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Jan. 20, 1936, ch. 113, § 1, 49 Stat. 1096; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143.)

SPECIAL PROVISIONS

Prior to the enactment of the Judicial Code the subject matter of this section was covered by R. S. §§ 563, 629, 1069, and acts Mar. 3, 1875, ch. 137, § 1, 18 Stat. 470; July 12, 1882, ch. 290, § 4, 22 Stat. 163; Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1887, ch. 373, § 1, 24 Stat. 552; Mar. 3, 1887, ch. 359, §§ 1, 2, 24 Stat. 505; Aug. 13, 1888, ch. 866, §§ 1, 4, 25 Stat. 433, 436; May 17, 1898, ch. 339, § 1, 30 Stat. 416; June 27, 1898, ch. 503, § 1, 30 Stat. 494; July 1, 1898, ch. 641, §§ 2, 23, 30 Stat. 545, 552; July 1, 1898, ch. 546, § 3, 30 Stat. 649; Feb. 26, 1900, ch. 25, 31 Stat. 33; June 18, 1910, ch. 309, § 1, 36 Stat. 539.

The following of the similar provisions set out in the preceding paragraph were repealed by act Mar. 3, 1911, ch. 231, § 297, 36 Stat. 1168; R. S. §§ 563, 629, 1069. Acts Mar. 3, 1875, ch. 137, § 1, 18 Stat. 470; Mar. 3, 1887, ch. 373, § 1, 24 Stat. 552; Mar. 3, 1887, ch. 359, §§ 1, 2, 24 Stat. 505; Aug. 13, 1888, ch. 866, §§ 1, 4, 25 Stat. 433, 436; June 27, 1898, ch. 503, § 1, 30 Stat. 494; July 1, 1898, ch. 641, § 3, 30 Stat. 649; June 18, 1910, ch. 309, § 1, 36 Stat. 539.

R. S. § 563 was derived from acts Sept. 24, 1789, ch. 20, § 9, 1 Stat. 76; Mar. 3, 1815, ch. 101, § 4, 3 Stat. 245; Aug. 23, 1842, ch. 188, § 3, 5 Stat. 517; Feb. 28, 1871, ch. 100, § 57, 16 Stat. 456.

R. S. § 629 was derived from act Sept. 24, 1789, ch. 20, § 11, 1 Stat. 78.

R. S. § 1069 was derived from act Mar. 3, 1863, ch. 92, § 10, 12 Stat. 767.

REPEAL SAVING CLAUSES

Act May 8, 1926, ch. 273, §§ 1-3, 44 Stat. 416, constituting a former par. (28) of this section, was repealed by act Jan. 20, 1936, ch. 113, § 2, 49 Stat. 1097, which further provided that such repeal "shall not affect any act done or any right, accruing or accrued in any suit or proceeding had or commenced under said act hereby repealed, prior to the passage of this act, but all such acts or rights, suits or proceedings shall continue and be valid and may be prosecuted and enforced in the same manner as if said act had not been repealed hereby."

Section 2 of act May 14, 1934, cited to text, provided as follows: "Sec. 2. The provisions of this act [the fourth sentence of paragraph (1) of this section] shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this act had not been passed."

Section 2 of act Aug. 21, 1937, cited to text, provided as follows: "Sec. 2. The provisions of this act [the fifth sentence of paragraph (1) of this section] shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if it had not been passed."

NATIONAL BANK ACT

Paragraph (16) of this section which was derived through R. S. § 563, from act June 3, 1864, ch. 106, 13 Stat. 99, is part of the National Bank Act. See section 38 of Title 12, Banks and Banking.

CROSS REFERENCES

Jurisdiction in suits to recover share of expenses assessed against handlers of agricultural commodities regardless of amount in controversy, see section 610 of Title 7, Agriculture.

Jurisdiction of actions by or against Federal reserve banks, see section 632 of Title 12, Banks and Banking.

Proceedings in suits against United States, see sections 761-765 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Counterclaim and cross-claim, see Rule 13, following section 723c of this title.

Effect of Rule 13 on this section, see note by Advisory Committee under said Rule 6.

Interpleader, injunctions, and deposit in court, see Rules 22, 65, 67, following section 723c of this title.

§ 42. Original jurisdiction of action by or against corporation incorporated under Act of Congress.

No district court shall have jurisdiction of any action or suit by or against any corporation upon the ground that it was incorporated by or under an Act of Congress. This section shall not apply to any suit, action, or proceeding brought by or against a corporation incorporated by or under an Act of Congress wherein the Government of the United States is the owner of more than one-half of its capital stock. (Feb. 13, 1925, ch. 229, § 12, 43 Stat. 941.)

§ 43. Venue of suits relating to orders of Interstate Commerce Commission.

The venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term "destination" shall be construed as meaning final destination of such shipment. (Oct. 22, 1913, ch. 32, 38 Stat. 219.)

§ 44. Procedure in certain cases under interstate commerce laws; service of processes of court.

The procedure in the district courts (a) in respect to cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty

Termination of United States District Court for the District of the Canal Zone

For termination of the United States District Court for the District of the Canal Zone at end of the "transition period", being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 3831 and 3841 to 3843 of Title 22, Foreign Relations and Intercourse.

§ 1347. Partition action where United States is joint tenant

The district courts shall have original jurisdiction of any civil action commenced by any tenant in common or joint tenant for the partition of lands where the United States is one of the tenants in common or joint tenants.

(June 25, 1948, c. 646, 62 Stat. 933.)

§ 1348. Banking association as party

The district courts shall have original jurisdiction of any civil action commenced by the United States, or by direction of any officer thereof, against any national banking association, any civil action to wind up the affairs of any such association, and any action by a banking association established in the district for which the court is held, under chapter 2 of Title 12, to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by such chapter.

All national banking associations shall, for the purposes of all other actions by or against them, be deemed citizens of the States in which they are respectively located.

(June 25, 1948, c. 646, 62 Stat. 933.)

HISTORICAL AND STATUTORY NOTES

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in Appendix 1 to Title 5, Government Organization and Employees. See section 321(c)(2) of Title 31 Money and Finance.

§ 1349. Corporation organized under federal law as party

The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.

(June 25, 1948, c. 646, 62 Stat. 934.)

§ 1350. Alien's action for tort

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed

in violation of the law of nations or a treaty of the United States.

(June 25, 1948, c. 646, 62 Stat. 934.)

HISTORICAL AND STATUTORY NOTES

Torture Victim Protection

Pub.L. 102-256, Mar. 12, 1992, 106 Stat. 73, provided that: "Section 1. Short Title.

"This Act may be cited as the 'Torture Victim Protection Act of 1991'.

"Sec. 2. Establishment of civil action.

"(a) **Liability.**—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

"(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

"(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual's legal representative, or to any person who may be a claimant in an action for wrongful death.

"(b) **Exhaustion of remedies.**—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

"(c) **Statute of limitations.**—No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.

"Sec. 3. Definitions.

"(a) **Extrajudicial killing.**—For the purposes of this Act, the term 'extrajudicial killing' means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

"(b) **Torture.**—For the purposes of this Act—

"(1) the term 'torture' means any act, directed against an individual in the offender's custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

"(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering

United States Code

- TITLE 31 - MONEY AND FINANCE
 - SUBTITLE II - THE BUDGET PROCESS
 - CHAPTER 13 - APPROPRIATIONS
 - SUBCHAPTER II - TRUST FUNDS AND REFUNDS

US Code as of: 01/05/99

Sec. 1321. Trust funds

- (a) The following are classified as trust funds:
 - (1) Philippine special fund (customs duties).
 - (2) Philippine special fund (internal revenue).
 - (3) Unclaimed condemnation awards, Department of the Treasury.
 - (4) Naval reservation, Olangapo civil fund.
 - (5) Armed Forces Retirement Home Trust Fund.
 - (6) Return to deported aliens of passage money collected from steamship companies.
 - (7) Vocational rehabilitation, special fund.
 - (8) Library of Congress gift fund.
 - (9) Library of Congress trust fund, investment account.
 - (10) Library of Congress trust fund, income from investment account.
 - (11) Library of Congress trust fund, permanent loan.
 - (12) Relief and rehabilitation, Longshore and Harbor Workers' Compensation Act.
 - (13) Cooperative work, Forest Service.
 - (14) Wages and effects of American seamen, Department of Commerce.
 - (15) Pension money, Saint Elizabeths Hospital.
 - (16) Personal funds of patients, Saint Elizabeths Hospital.
 - (17) National Park Service, donations.
 - (18) Purchase of lands, national parks, donations.
 - (19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.
 - (20) Indian moneys, proceeds of labor, agencies, schools, and so forth.
 - (21) Funds of Federal prisoners.
 - (22) Commissary funds, Federal prisons.
 - (23) Pay of the Navy, deposit funds.
 - (24) Pay of Marine Corps, deposit funds.
 - (25) Pay of the Army, deposit fund.
 - (26) Preservation birthplace of Abraham Lincoln.
 - (27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.
 - (28) Funds contributed for flood control, Sacramento River, California.
 - (29) Effects of deceased employees, Department of the Treasury.
 - (30) Money and effects of deceased patients, Public Health Service.
 - (31) Effects of deceased employees, Department of Commerce.
 - (32) Topographic survey of the United States, contributions.
 - (33) National Institutes of Health, gift fund.
 - (34) National Institutes of Health, conditional gift fund.

- (35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.
- (36) Estates of deceased personnel, Department of the Army.
- (37) Effects of deceased employees, Department of the Interior.
- (38) Fredericksburg and Spotsylvania County Battlefields memorial fund.
- (39) Petersburg National Military Park fund.
- (40) Gorgas memorial laboratory quotas.
- (41) Contributions to International Boundary Commission, United States and Mexico.
- (42) Salvage proceeds, American vessels.
- (43) Wages due American seamen.
- (44) Federal Industrial Institution for Women, contributions for chapel.
- (45) General post fund, National Homes, Department of Veterans Affairs.
- (46) Repatriation of American seamen.
- (47) Expenses, public survey work, general.
- (48) Expenses, public survey work, Alaska.
- (49) Funds contributed for improvement of roads, bridges, and trails, Alaska.
- (50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.
- (51) Washington redemption fund.
- (52) Permit fund, District of Columbia.
- (53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.
- (54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.
- (55) Miscellaneous trust fund deposits, District of Columbia.
- (56) Surplus fund, District of Columbia.
- (57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.
- (58) Inmates' fund, workhouse and reformatory, District of Columbia.
 - (59) Repealed. Pub. L. 101-510, div. A, title XV, Sec. 1533(c)(1)(A)(ii), Nov. 5, 1990, 104 Stat. 1735.)
 - (60) Chamber Music Auditorium, Library of Congress.
 - (61) Bequest of Gertrude Hubbard.
 - (62) Puerto Rico special fund (Internal Revenue).
 - (63) Miscellaneous trust funds, Department of State.
 - (64) Funds contributed for improvement of (name of river or harbor).
 - (65) Funds advanced for improvement of (name of river or harbor).
 - (66) Funds contributed for Indian projects.
 - (67) Miscellaneous trust funds of Indian tribes.
 - (68) Ship's stores profits, Navy.
 - (69) Completing Surveys within Railroad Land Grants.
 - (70) Memorial to Women of World War, contributions.
 - (71) Funds contributed for Memorial to John Ericsson.
 - (72) American National Red Cross Building, contributions.
 - (73) Estate of decedents, Department of State, Trust Fund.

- (74) Funds due Incompetent Beneficiaries, Department of Veterans Affairs.
- (75) To promote the Education of the Blind (principal).
- (76) Paving Government Road across Fort Sill Military Reservation, Okla.
- (77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.
- (78) Funds Contributed for Flood Control (name of river, harbor, or project).
- (79) Matured obligations of the District of Columbia.
- (80) To promote the education of the blind (interest).
 - (81) Repealed. Pub. L. 101-510, div. A, title XV, Sec. 1533(c)(1)(A)(ii), Nov. 5, 1990, 104 Stat. 1735.)
 - (82) Post-Vietnam Era Veterans Education Account, Department of Veterans Affairs.
 - (83) United States Government life insurance fund, Department of Veterans Affairs.
 - (84) Estates of deceased soldiers, United States Army.
 - (85) Teachers Retirement Fund Deductions, District of Columbia.
 - (86) Teachers Retirement Fund, Government Reserves, District of Columbia.
 - (87) Expenses of Smithsonian Institution Trust Fund (principal).
 - (88) Civil Service Retirement and Disability Fund.
 - (89) Canal Zone Retirement and Disability Fund.
 - (90) Foreign Service Retirement and Disability Fund.
 - (91) Violent Crime Reduction Trust Fund.
- (b)
 - (1) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be deposited in an appropriate trust fund account in the Treasury. Except as provided in paragraph (2), amounts accruing to these funds are appropriated to be disbursed in compliance with the terms of the trust.
 - (2) Expenditures from the following trust funds may be made only under annual appropriations and only if the appropriations are specifically authorized by law:
 - (A) Armed Forces Retirement Home Trust Fund.
 - (B) Fisher House Trust Fund, Department of the Army.
 - (C) Fisher House Trust Fund, Department of the Air Force.
 - (D) Fisher House Trust Fund, Department of the Navy.

FEDERAL TRUST FUNDS

As of 4-30-2001

(in billions)

Government Account Series—Intragovernmental Holdings

These are the accounts that hold nothing but “special obligation nonmarketable Treasury bonds” that add to the national debt and can only be redeemed by taking money from the General Fund Treasury income tax receipts. Read and weep. They represent future taxes that you or your children will pay.

1. Abandoned Mines Reclamation Fund	1.847
2. Airport & Airways Trust Fund	13.744
3. Albanian Claims Fund	.001
4. Aquatic Resources Trust Fund	1.233
5. Armed Forces Retirement Home Trust Fund	.099
6. Assessment Funds, Office of the Comptroller of the Currency	.292
7. Assets Forfeiture Fund, Justice	.542
8. Aviation Insurance Revolving Fund	.080
9. Bank Insurance Fund	30.160
10. Bequest of Major Gen. F.C.Ainsworth, Library, Walter Reed Gen. Hosp.	.002
11. Bequests & Gifts, Disaster Relief Appropriated to Pres.	.000
12. Capitol Preservation Fund	.031
13. Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration	.012
14. Christopher Columbus Scholarship, Columbus Fellowship Foundation	.005
15. Civil Service Retirement and Disability	497.557
16. Claims Court Judges Retirement Fund	.010
17. Coast Guard General Gift Fund	.001
18. Commissary Funds, Federal Prisons	.100
19. Community Development Credit Union Revolving Fund	.001
20. Conditional Gift Fund, General, Department of State	.003
21. Contributions, American Battle Monuments Commission	.080
22. Court of Veterans Appeals Retirement Fund	.005
23. Defense Cooperation Account	.001
24. Dept. of Defense, Education Benefits Fund	.772
25. Dept. of Defense Military Retirement Fund	160.525
26. Dept. of the Air Force General Gift Fund	.001
27. Dept. of the Army General Gift Fund	.001
28. Dept. of the Navy General Gift Fund	.002
29. District of Columbia Judges Retirement Fund	.081
30. District of Columbia Pension Liability Fund	2.857
31. Eisenhower Exchange Fellowship Program	.007
32. Employees Health Benefit Fund	6.321
33. Employees Life Insurance Fund	23.046
34. Endeavor Teacher Fellowship Trust Fund	.001
35. Environmental Improvement and Restoration Fund	.956

36. Environmental Policy and Conflict Resolution Act of 1998	.002
37. Estelle Cattell Schmitt Gift Fund	*
38. Exchange Stabilization Fund, Treasury	10.111
39. Expenses, Presidio Trust	.146
40. Farm Credit Insurance Fund, Capital Corporation Investment Fund	1.573
41. Federal Aid to Wildlife Restoration	.495
42. Federal Disability Insurance Trust Fund (Social Security)	126.405
43. Federal Hospital Insurance Trust Fund (Medicare)	188.703
44. FHA-Flexible Subside Fund, Housing & Urban Development	.162
45. FHA-General and Special Risk Insurance	.008
46. FHA-Liquidating Account	18.693
47. Federal Old Age & Survivors Insurance (Social Security)	976.216
48. Federal Supplemental District of Columbia Pension Fund	.863
49. Federal Supplemental Medical Insurance (Medicare)	46.763
50. Fisherman's Contingency Fund, NOAA	.002
51. Foreign Fishing Observer Fund	.002
52. Foreign Service Retirement & Disability Fund	10.959
53. FSLIC Resolution Fund	2.513
54. General Post Fund, National Homes, Dept. of Veterans Affairs	.055
55. German Democratic Republic Settlement Fund	.006
56. Gifts and Bequests, Dept. of Transportation	*
57. Gifts and Donations, National Endowment for the Humanities	.002
58. Gifts and Donations, National Endowment of the Arts	*
59. Guarantees of Mortgage-Backed Securities, HUD	6.423
60. Harbor Maintenance Trust Fund	1.693
61. Harry S. Truman Memorial Scholarship Trust Fund	.056
62. Hazardous Substance Superfund	4.089
63. Highway Trust Fund	25.896
64. Host Nation Support to U.S. Relocation Activities Account	.002
65. Inland Waterways Trust Fund	.400
66. Inspection & Weighing Services, Grain Inspection, Packers & Stockyards	.002
67. Iranian Claims Settlement Fund	*
68. Israeli Arab Scholarship Program, U.S. Information Agency	.004
69. James Madison Memorial Fellowship Foundation Fund	.038
70. Japan-United States Friendship Trust Fund	.042
71. John C. Stennis Center for Public Service Training and Development	.010
72. Judicial Officers Retirement Fund	.153
73. Judicial Survivors Annuities Fund	.367
74. Kennedy Center Revenue Bond Sinking Fund	.005
75. Leaking Underground Storage Trust Fund	1.736
76. Library of Congress Gift Fund	.007
77. Library of Congress Trust Fund	.037
78. Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust	.004
79. Morris K. Udall Scholarship & Excellence in Environmental Policy Trust	.026
80. National Archives Trust Fund	.012
81. National Credit Union Share Insurance Fund	4.407

82. National Gift Fund, Archives and Records	.005
83. National Institute of Health Conditional Gift Fund	.005
84. National Institute of Health Unconditional Gift Fund	.014
85. National Security Education Trust Fund	.042
86. National Service Life Insurance Fund, Dept. of Veterans Affairs	11.643
87. National Service Trust, Corp. for National & Community Service	.319
88. National American Institutions Endowment Fund	.029
89. Natural Resource Rescue Damage and Restoration Fund	.121
90. Nuclear Waste Disposal Fund	19.829
91. Oil Spill Liability Trust Fund	1.140
92. Oliver Wendell Holmes Device Fund	*
93. Operating Fund, National Credit Union Administration	.039
94. Operation & Maintenance, Indian Irrigation Systems	.028
95. Overseas Private Investment Corporation	3.236
96. Panama Canal Commission Compensation Fund	.074
97. Patients Benefit Fund, National Institutes of Health	.001
98. Payments to Copyright Owners	.462
99. Pension Benefit Guarantee Corporation	12.844
100. Power Systems, Indian Irrigation Projects	.030
101. Preservation, Birthplace of Abraham Lincoln	*
102. Prison Industries Fund	.036
103. Public Enterprise Revolving Fund, Office of Thrift Supervision	.133
104. Public Health Service Coordination Gift Fund	.003
105. Railroad Retirement Account	23.448
106. Railroad Retirement Supplemental Account	.062
107. Relief & Rehabilitation, Longshoremen & Harbor Workers	.046
108. Relief & Rehabilitation, Workmen's Compensation Act, D.C.	.004
109. Reregistration & Expedited Processing Fund, Environmental Protection	.011
110. Reserve Mobilization Income Insurance Fund	.004
111. Retired Employees Health Benefits Fund	.002
112. Revolving Fund for Administrative Expenses, Farm Credit Admin.	.022
113. Saving Association Insurance Fund	11.109
114. Science, Space & Technology Education Trust Fund, NAS	.013
115. Seized Currency, U.S. Customs	.211
116. Servicemen's Group Life Insurance Fund	.006
117. Social Security Equivalent Benefit Account, Railroad Retirement	2.263
118. South Dakota Terrestrial Wildlife Habitat Restoration	.031
119. Southern Nevada Public Land Management Act of 1998	.043
120. Tax Court Judges Survivors Annuity Fund	.007
121. Treasury Forfeiture Fund	.149
122. Tribal Special Fund, Special Trustees for Indian Affairs	.004
123. Trust Fund, The Barry Goldwater Scholarship & Excellence in Ed.	.063
124. Trust Funds, United States Information Agency	.001
125. Unconditional Gift Fund, State	*
126. Unemployment Trust Fund	81.894
127. United States Enrichment Corporation Fund	1.268

128.	United States Government Life Insurance Fund, Dept. of Veterans	.070
129.	United States Naval Academy General Gift Fund	.007
130.	United States Trustee System Fund, Justice	.125
131.	Uranium Enrichment and Decommissioning Fund	2.261
132.	Utah Reclamation Mitigation & Conservation Account	.122
133.	Vaccine Injury Compensation Trust Fund	1.646
134.	Veterans Reopened Insurance Fund	.490
135.	Veterans Special Life Insurance Fund	1.725
136.	Vietnam Claims Fund	*
137.	Voluntary Separation Incentive Fund, Defense	.893
138.	War-Risk Insurance Revolving Fund	.031
Total		2,385.627

(*) Less than one million

Government Account Series—Held by the Public
(Real Trust Funds)

“Held by the Public” are the government’s words. These accounts are carried forward, year by year, and are effective lock-boxes; i.e., the money can only be used for the assigned purpose. Too bad Social Security, Medicare, and other entitlements are not included here.

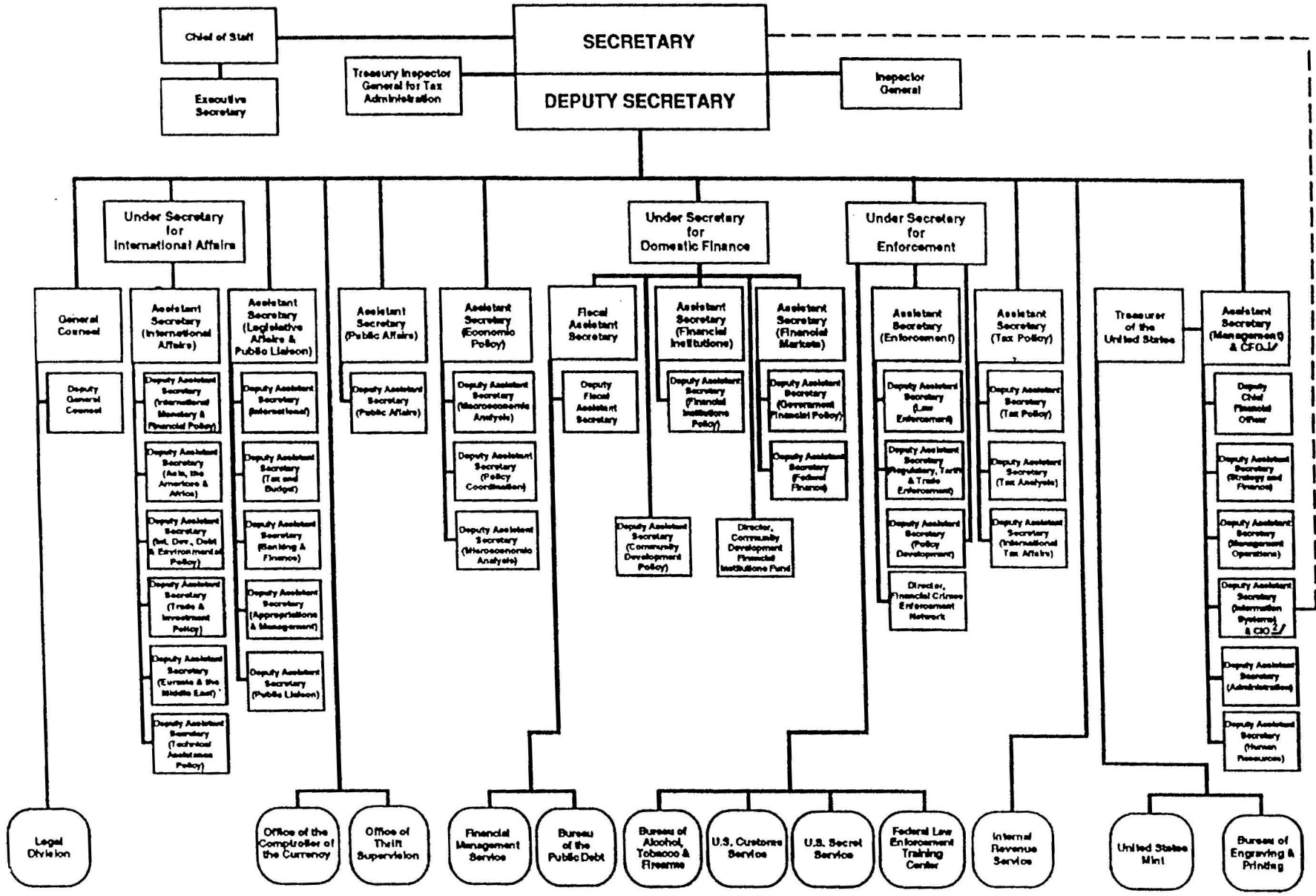
(in billions)

139.	Custodial Tribal Fund, Special Trustee for American Indians	.834
140.	Deposits, Outer Continental Lands Act	.088
141.	Escrow Account, National Labor Relations Board	.024
142.	Federal Ship Financing Escrow Fund, Maritime Administration	.103
143.	Gifts, Central Intelligence Agency	*
144.	Inspection and Grading of Fishery Products	*
145.	Kuukpik Alaska Escrow Fund	.032
146.	Payments of Alleged Violations of Dept. of Energy Regulations	.288
147.	Seized Assets Fund, Justice	.563
148.	Smithsonian Endowment Fund	.001
149.	Special Investment Account	.962
150.	Thrift Savings Fund	34.836
151.	Treasury Deposit Funds	.019
152.	Unearned Copyright Fees	.003
153.	Wage & Hour & Public Contracts Restitution Fund	.005
Total GAS – held by the public		37.759

(*) In this case, means less than one million or waiting for deposits of real money from the Treasury’s General Fund of income tax dollars.

Notice #149, the government playing the money market. And, of course, #150, their own pension plan.

THE DEPARTMENT OF THE TREASURY



215

Exhibit

TREASURY BUREAUS



Assistant Secretary (Management) and Chief Financial Officer is Treasury's Chief Operating Officer.

Approved: *Robert E. Rubin*



U.S. Department of Justice

*United States Attorney
Northern District of Ohio*

*United States Court House
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113*

November 13, 2003

PERSONAL AND CONFIDENTIAL

Re: Notification of Status as Target of Federal Grand Jury Investigation

Dear Dr.

Please be advised that you are the target of an ongoing investigation, being conducted by a federal Grand Jury, in conjunction with this office and the Internal Revenue Service, Criminal Investigation, involving possible violations of law including, but not limited to, Title 26, United States Code, Section 7201 (willful tax evasion).

As such, while no charges have yet been filed, you may wish to seek the assistance of legal counsel. In addition, I would like to extend an offer to meet with you and your attorney, prior to the completion of the investigation, to discuss our findings to date. If you and your attorney agree to such a meeting, please have your attorney contact me to make arrangements. I can be reached at (216) 622-3914.

Sincerely,

Handwritten signature of Thomas J. Gruscinski in cursive script, underlined.

Thomas J. Gruscinski
Assistant United States Attorney

002154

PAGE NO-0001

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO

ACCOUNT NO
NAME CONT-

08-02-2004
CYCLE-200430

FOR-7921750677 BY-7921750677 ON-08022004 TYP-S-30-199712
TIME-13:45 SRC-I 03094

PROCESSED ON-215
REQUESTED TAX MODULE FOUND ON MF
DROPPED ENTITY DATA IS AVAILABLE
USE MFTRA REQUEST-TYPE -E- HARDCOPY

*Scrambled
Social
Sec. #*

1993 1

BODC-WI BODCLC-

199707

LOC-3614

YEAR REMOVED-

ENT EXT CYC-200401

PRIOR NAME CONTROL- FZ> -Z
MFR-01 VAL-1 IRA- CAF-
FYM-12 SCS-1 CRINV-Z 130-
RPTR- PMF- SHELT- BNKRPT- BLLC-
ACCRETION- MIN SE-
JUSTIFICATION-1 IRS EMPL- FED EMPL-

PTNL

* TAX PERIOD 30 199712 *

FS-1 TFRP- CRINV-Z LIEN-
TDA COPYS-

INT TOLERANCE- MATH INCREASE-
MF MOD BAL- 0.00
ACRUED INTEREST- 0.00 03012004
ACRUED PENALTY- 0.00 03012004
FMS- IA CD-0

REASON CD- MOD EXT CYC-200401

36277-452-30026-1 CAF- FZ> -Z
TDI COPYS-

HISTORICAL DO-36 BWNC- BWI-

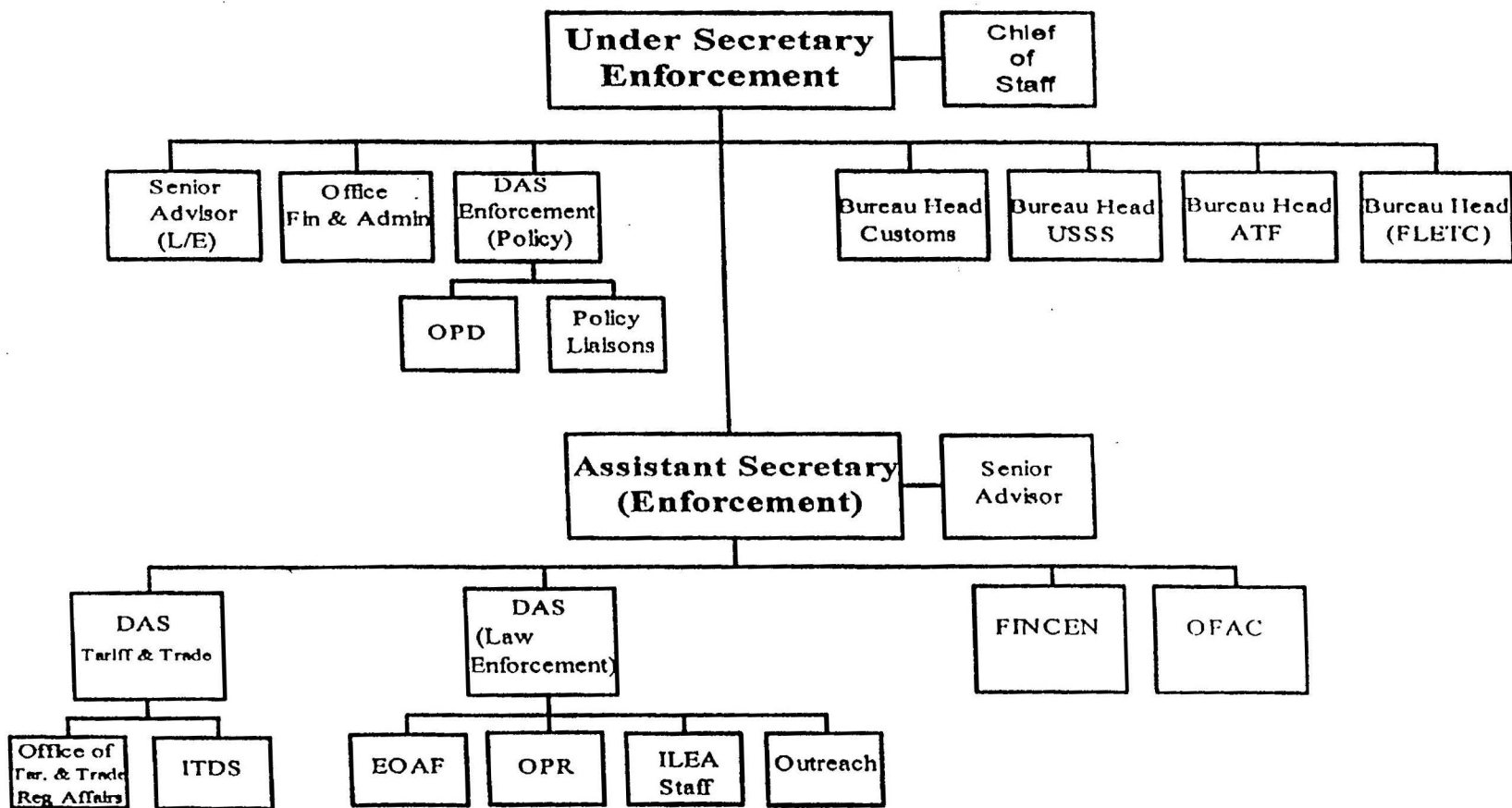
CSED-
RSED-
ARDI-0

ASED-00000000

217

960	06081998	-----	199824	07277-560-00896-8
				MF CAF CODE-1
914	06062000	-----	200024	36277-558-30089-0
961	06162000	-----	200026	07277-571-01190-0
				MF CAF CODE-
914	02212001	-----	200109	36277-452-30026-1

OFFICE OF ENFORCEMENT



219

Exhibit

[Signature]
 Assistant Secretary for Management
 and Chief Financial Officer June 3, 1999

4/12/99
 3/31/99 2:42 PM

Approve *[Signature]*
 Assistant Secretary (Enforcement)

subdivision, or passed upon the value, if any, of the property.

"It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the Statements in this Property Report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration,
HUD Building, 451 Seventh Street SW., Wash-
ington, D.C. 20410."

The fifth and sixth paragraphs of the disclaimer shall be combined into one paragraph which shall appear as follows:

"Inspect the property and read all documents. Seek professional advice. Unless you received this Property Report prior to or at the time you enter into a contract, you may void the contract by notice to the seller."

The last paragraph of that section is deleted and the following language is inserted in lieu thereof:

IMPORTANT READ CAREFULLY

Name of subdivision:

By signing this receipt you acknowledge that you have received a copy of the Property Report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by _____

Street Address _____

Date _____

City _____ State _____

ZIP _____

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

The page containing the above disclaimer shall be a separate page and it shall be prepared in the format required by § 1710.110, Part B. 2., 4., 5. and 6." (38 FR 23896).

§ 1710.120 [Amended]

11. In § 1710.120, first line, the word "filing" is changed to read "filing" (38 FR 23896).

12. In § 1710.120, section I. State filings, the words "set forth in § 1710.105 for Part I." are changed to read "set forth in § 1710.105 for the heading to the format Part I." (38 FR 23896).

PART 1715—ADVERTISING, SALES PRACTICES, POSTING OF NOTICE OF SUSPENSION

§ 1715.5 [Amended]

1. Section 1715.5 (a) (2) is revised to read "(2) which by such statement or pictorial representation of any kind, or by omission thereof, in this light of applicable circumstances, is misleading or . . ."

2. In § 1715.5(a), the following language is to be deleted: "or (4) which differs materially from the information contained in a statement of reservations, restrictions, taxes, and assessments filed pursuant to §§ 1710.11 and 1710.102 of this chapter." The following additional

words are to be added in lieu thereof: "or in state filings made pursuant to § 1710.25 of this chapter." (38 FR 23897).

§ 1715.10 [Amended]

3. In § 1715.10(a) the last paragraph is revised to read as follows: "Obtain the HUD Property Report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value, if any, of the property." (38 FR 23978).

4. In § 1715.10(b) the last paragraph is revised to read as follows: "Obtain the HUD Property Report from the developer and read it before signing anything. HUD neither approves the merits of the offering nor the value, if any, of the property." (38 FR 23897).

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

§ 1720.40, 1720.380 and 1720.530 [Amended]

1. In § 1720.40 (b), fifth line, the words "by in" shall be changed to read "by in-" (38 FR 23900).

2. In § 1720.380, third line, the words "swering brief" are changed to read "swering brief" (38 FR 23907).

3. The effective date provision which follows § 1720.530 of the Regulations beginning with the fourth line on page 23909 is revised to read as follows:

to bring the whole filing or consolidation into compliance with these regulations with the exception that Part II., subparts A. and B., Part IV.E., subparts 1. and 2. and Part V. of the Statement of Record, which may be retained in their original form if the amendments to these parts would only be the result of the new regulations. Consolidations may be updated by including the information required by the new regulations in the last consolidation on which there is an effective Property Report or by filing a new consolidation in accordance with these regulations.

(Section 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d), 1419), 82 Stat. 698 (16 U.S.C. 1718), Secretary's delegation of authority published at 37 FR 6071.)

Effective date. This correcting amendment is effective December 1, 1973.

Issued at Washington, D.C., November 20, 1973.

GEORGE K. BERNSTEIN,
Interstate Land
Sales Administrator.

[FR Doc. 73-24777 Filed 11-23-73; 8:46 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURES AND PRACTICES [T.D. ATF-6]

PART 70—PROCEDURE AND ADMINISTRATION

The following regulations are hereby prescribed as Part 70 of Title 27 of the Code of Federal Regulations (a portion of the CFR devoted exclusively to alco-

hol, tobacco, firearms, and explosives matters, as administered and enforced by the Bureau of Alcohol, Tobacco and Firearms). These regulations, which were formerly included in 26 CFR Part 301 (a portion of the CFR currently devoted to both Internal Revenue and Bureau of Alcohol, Tobacco and Firearms matters), set forth the procedural and administrative rules of the Bureau relating to: the issuance and enforcement of summonses; examination of books of accounts and witnesses; administration of oaths; entry of premises for examination of taxable objects; granting of rewards for information; canvassing of regions for taxable objects and persons; and the authority of officers of the Bureau. At a later date additional provisions, based on those in 26 CFR Part 301 which still have application to Bureau activities, will be published in 27 CFR Part 70.

1. The regulations in this part supersede that portion of 26 CFR Part 301 under the center headnote of "Discovery of Liability and Enforcement of Title" embracing §§ 301.7601 through 301.7655, to the extent that it applied to laws formerly administered by the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service and as of July 1, 1972, administered by the Bureau of Alcohol, Tobacco and Firearms, under Treasury Department Order No. 221.

2. These regulations shall not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part shall become effective on November 26, 1973.

Subpart A—Scope

Sec. 70.1 General.

Subpart B—Definitions

70.11 Meaning of terms.

Subpart C—Discovery of Liability and Enforcement of Laws

EXAMINATION AND INSPECTION

- 70.21 Canvass of regions for taxable persons and objects.
- 70.22 Examination of books and witnesses.
- 70.23 Service of summonses.
- 70.24 Enforcement of summonses.
- 70.25 Time and place of examination.
- 70.26 Entry of premises for examination of taxable objects.
- 70.27 Examination of records and objects.
- 70.28 Authority of enforcement officers of the Bureau.

GENERAL POWERS AND DUTIES

- 70.35 Authority to administer oaths and certify.
- 70.36 Rewards for information relating to violations of tax laws administered by the Bureau.

POSSESSIONS

- 70.41 Shipments to the United States.
- 70.42 Shipments from the United States.

AUTHORITY: (26 U.S.C. 7805, 18 U.S.C. 926, 847); 68A Stat. 917, 82 Stat. 234, 84 Stat. 959. Statutory provisions interpreted or applied are cited to text in parentheses.

Criminal Investigation Control Notice

To: Resident Agent in Charge, Fraud Detection Center	Field Office Number:
From: Special Agent in Charge, Criminal Investigation	Investigation Number: Related Investigation(s):

Requesting Special Agent Information

Name:	Identifying Code
Telephone Number:	

Initiate control indicated by item marked "x" (one only)	<input type="checkbox"/> TC910	CI Account Hold	Retain all periods on Master File.	Initiate control indicated by item marked "x" (one only)	<input type="checkbox"/> TC915	Refund Release (SC use only)	Partial Reverse of TC916 / 918
	<input type="checkbox"/> TC911	Reverse TC910			<input type="checkbox"/> TC916	QRP Module Freeze (SC use only)	QRP Criminal Investigation
	<input type="checkbox"/> TC914	CI Module Freeze	Active Criminal Investigation		<input type="checkbox"/> TC917	Reverse TC916 (SC use only)	
	<input type="checkbox"/> TC914	TC914 Update	Enter Changes only to Freeze		<input type="checkbox"/> TC918	QRP Entry Freeze (SC use only)	QRP Criminal Investigation
	<input type="checkbox"/> TC912	Reverse TC914			<input type="checkbox"/> TC919	Reverse TC918 (SC use only)	

Taxpayer Identification

Complete if control on one of following (check one): <input type="checkbox"/> IMF <input type="checkbox"/> IRAF <input type="checkbox"/> RMF (SSN)	Individual SSN Taxpayer's Name (Last, First, Middle) Address (Number, Street, City, State, ZIP Code)	Spouse SSN
Complete if control on one of following (check one): <input type="checkbox"/> BMF <input type="checkbox"/> RMF (EIN)	Employer's Identification No. Business Name Business Address (Number, Street, City, State, ZIP Code)	
Complete for failure-to-file investigation, if known <input type="checkbox"/> Known non-filer	Complete if account currently under control Old level of control: <input type="checkbox"/> TC-910 <input type="checkbox"/> TC-914 <input type="checkbox"/> TC-916 <input type="checkbox"/> TC-918	<input type="checkbox"/> See below for Special instructions

Special Instructions - Criminal Investigation

Remarks:	
Special Agent in Charge, Criminal Investigation	Date



To Establish Control TC910 / 914 / 918		Cycle Posted	Initials	To Close-out Control (check one) <input type="checkbox"/> TC910 <input type="checkbox"/> TC914 <input type="checkbox"/> TC916 <input type="checkbox"/> TC918	Cycle Posted	Initials
Account Not on MF				1. To Input Form 3177 (check one) <input type="checkbox"/> TC911 <input type="checkbox"/> TC912 <input type="checkbox"/> TC917 <input type="checkbox"/> TC919		
1. Input Form 2363 To Establish Account	BMF			2. Special Close-out Procedures		
	IMF	Individual Spouse		a. Form 3177 - TC590		
	<input type="checkbox"/> RMF <input type="checkbox"/> IRAF (check one)			b. Form 3177 - TC591		
Account on MF				3. Transfer to MF Transactions under Manual Control		
1. Input Form 3177 To Establish Control	BMF					
	IMF	Individual Spouse				
	<input type="checkbox"/> RMF <input type="checkbox"/> IRAF (check one)					
1. Input Form 3177 To Establish Control	BMF					
	IMF	Individual Spouse				
	<input type="checkbox"/> RMF <input type="checkbox"/> IRAF (check one)					

1. The following returns, not under TC914, 916, or 918 control, have been or are being obtained:

Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period

2. The subject taxpayer is not required to file the returns listed below.

Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period

3. If there are any filing requirements not met by subject taxpayer, explain.

<input type="checkbox"/> 4. If assessment of a delinquent penalty has been suppressed, complete the following:		Form Number	Tax Period	Form Number	Tax Period
Investigation referred to Examination	Assess Delinquency Penalty				
	Do not assess Delinquency Penalty				

Transfer-in of Transactions under Manual Control (cont'd)

	Cycle Posted	Initials		Cycle Posted	Initials



U.S. Department of Justice

Tax Division

Washington, D.C. 20533

June 4, 200

CF:JBF:RSILBER
FOIPA/TAX #

Certified Mail No. 7000 0600
RETURN RECEIPT REQUESTED

Dear Mr.

This refers to your March 21, 200 Privacy Act request that was addressed to the Tax Division. The Tax Division's Freedom of Information and Privacy Act Unit effectively received your request on April 23, 2001.

Pursuant to 28 C.F.R. § 16.1, your request was reviewed under the standards of the Freedom of Information Act, 5 U.S.C. § 552, as amended by the Freedom of Information Reform Act of 1994, as amended by the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C.A. § 552 (West Supp. 1997).

The Tax Division has determined that eight (8) documents from its records are responsive to your request as follows:

1. Three (3) documents may be partially released. These documents are enclosed with this letter.

The portions of the partially released documents that are not being disclosed are being withheld pursuant to applicable provisions of 5 U.S.C. § 552(b)(5) (Exemption 5), 5 U.S.C. § 552(b)(7)(A) (Exemption 7(A)), and 5 U.S.C. § 552(b)(7)(C) (Exemption 7(C)).

FOIPA/TAX #
Certified Mail No. 7000 0600

Exemption 5 has been applied, in conjunction with the deliberative privilege, to withhold opinions and recommendations that are pre-decisional in nature, reflecting the give and take of the Government's decision making process.

Exemption 7(A) has been applied to information compiled for law enforcement purposes whose disclosure could reasonably be expected to interfere with a law enforcement proceeding.

Exemption 7(C) has been applied to information compiled for law enforcement purposes whose disclosure could reasonably be expected to be an unwarranted invasion of the personal privacy of third parties.

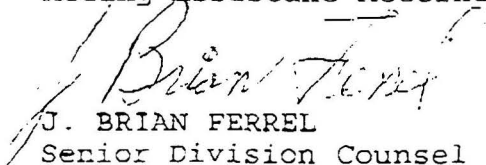
3. 5 documents are being withheld. These documents have been withheld pursuant to applicable provisions of Exemptions 7(A) and 7(C). These exemptions were described above.

In the event you wish to appeal this determination, you may write to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, 10th Street and Constitution Avenue, N.W., Suite 570, Washington, D.C. 20530-0001 within sixty (60) days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Thereafter, judicial review of the final determination will be available in the District Court of the United States located in the district in which you reside, where you have your principal place of business, in which the agency records are located, or in the District of Columbia.

Sincerely yours,

Claire Fallon
Acting Assistant Attorney General

By:


J. BRIAN FERREL
Senior Division Counsel
for FOIA and PA Matters

Enclosures (3)

REQUEST FOR GRAND JURY INVESTIGATION COPY

1. Reg. control number	2. Date prepared	3. District
------------------------	------------------	-------------

4. In reference to: Name Investigation number Address SSN/EIN	5. Type of request <input checked="" type="checkbox"/> a. Service initiated <input type="checkbox"/> b. Government attorney <input type="checkbox"/> c. OCE/TF <input type="checkbox"/> d. Target Expansion
---	---

6. a. Is there currently an ongoing Grand Jury investigation? [REDACTED]

b. If yes, does this request include Grand Jury material? [REDACTED]

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

Internal Revenue Service - Criminal Investigation Division

b. Probable non-tax criminal charges

[REDACTED]

8. Reasons for IRS participation and deterrent effect of anticipated investigation(s) (include justification for the need of a Grand Jury)

[REDACTED]

RECEIVED
DALLAS

JUN 16 2000

REGIONAL COUNSEL, MIDSTATES
INTERNAL REVENUE SERVICE

9. a. Contemplated IRS charge(s)

[REDACTED]

b. Tax periods to be investigated

[REDACTED]

c. Summary of returns and return information
 d. Summary of financial and other relevant information
 e. Copies of tax returns at issue

11. Grand Jury Access List

12. a. Does this request include out of region targets?
 b. If yes, identify the regions and districts
 c. Target expansions and ODCDEF requests (was out of region concurrence received?)
 d. (For regional use only)
 Out of region concurrence received?

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. Summary/copy of pre-referral advice
 e. Additional evidence or testimony to be sought through the Grand Jury

Special Agent [redacted] Date 06/07/2000

14. Reviewing officials
 (If this request is approved, necessary staffing will be made available)

	Telephone	Date
Group manager, CID	[redacted]	
Concurrence	[redacted]	6/12/00
Chief, CID	[redacted]	
Concurrence	[redacted]	6/14/00
District Director	[redacted]	
Codirector/approver	[redacted]	6/14/00
AC (CI)		
Concurrence		

Notes:
 [redacted]

Approved for forwarding to Regional Council
 Disapproved

Regional Commissioner _____ Date _____



11/23/92

TC

IRS Ogden
Ogden, Utah 84201
|||

|||

9-

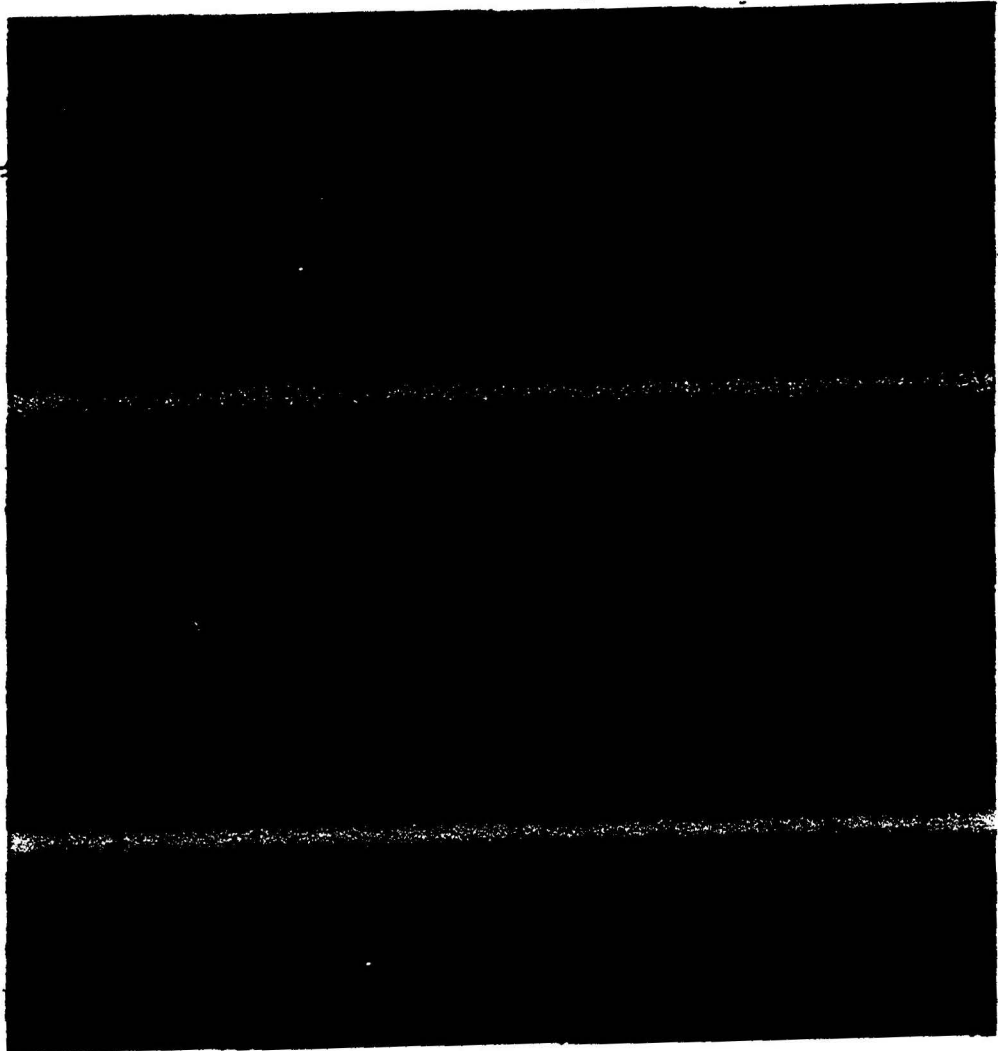
GRAND JURY ACCESS LIST

UNITED STATES ATTORNEY
NORTHERN JUDICIAL DISTRICT OF

THIS REPORT/DOCUMENT CONTAINS SECRET GRAND JURY
MATERIAL. PLEASE READ THE ATTACHED DISCLOSURE FORM
AND ACKNOWLEDGE YOUR REVIEW.

ACKNOWLEDGMENT

I HEREBY CERTIFY that I have been fully advised and understand the restrictions on the grand jury secrecy requirements imposed by Rule 6, Federal Rules of Criminal Procedure. Any and all matters occurring before the grand jury are secret and cannot be disclosed and knowing violations of Rule 6 may be punished in accordance with federal criminal laws.





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Sec. 7608. - Authority of internal revenue enforcement officers

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms

Any investigator, agent, or other **internal revenue** officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may -

(1)

carry firearms;

(2)

execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3)

in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4)

in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to **internal revenue** other than subtitle E

(1)

Any criminal investigator of the Intelligence Division of the **Internal Revenue** Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the **internal revenue** laws, any other criminal provisions of law relating to **internal revenue** for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the

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parallel authorities for 26 USC 7608 (from CFR)

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

- [27 CFR part 70](#)
- [27 CFR part 170](#)
- [27 CFR part 296](#)

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Exhibit 2 Cont. (7)

Delegated Authority for Other Personnel Matters

<i>Are Delegated Authority to:</i>	<i>For Position of:</i>	<i>May Redelegate Authority no Lower Than:</i>
Approve monetary awards and exceptions to monetary award scales of \$5,001—\$10,000 (excluding Merit Pay Cash Awards) for any one individual or group	Internal Revenue Service	May not be redelegated
<i>With the Commissioner's concurrence:</i> Recommend to Treasury monetary awards of \$10,001—\$25,000 (\$5,001 or more for Merit Pay Cash Awards) for any one individual or group	Internal Revenue Service	May not be redelegated
Recommend an additional monetary award of \$10,000 (total \$35,000) to the President through Treasury and OPM	Internal Revenue Service	May not be redelegated
As Chairperson, Executive Resources Board, to review and concur in recommendations for all awards for executives	Centralized positions as defined in IRM 0250 and positions centralized to Executive Resources Board	May not be redelegated

Assistant Commissioners (Except Inspection) and Assistant to the Commissioner

<p>Approve monetary awards and exceptions to monetary award scales up to and including \$5,000 for any one individual or group, and incur necessary expenses for the recognition of contributions</p>	<ol style="list-style-type: none"> 1. Employees under their jurisdiction, including field employees engaged in National Office projects (except centralized positions as defined in IRM 0250 and positions centralized to Executive Resources Board); and contributions of employees of other Government agencies and armed forces members 2. Employees in Data center, National Computer Center 	<ol style="list-style-type: none"> 1. Deputy Assistant Commissioner Division Director, or equivalent level, of initiating National Office function for awards up to and including \$3,000 Branch Chief, or equivalent level, of initiating National Office function for awards up to and including \$1,500 2. Division Chief, or equivalent level, for awards up to and including \$3,000 Branch Chief, or equivalent level, for awards up to and including \$1,500
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26 USC 7804
note.

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.

Criminal Complaint

United States

v.

[Defendant's name]

} No. _____

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about [date(s)] in _____ County, in the _____ District of [State], defendant(s) did, [track statutory language of offense] in violation of Title _____ United States Code, Sections(s) _____. I further state that I am a(n) [official title] and that this complaint is based on the following facts:

[set forth facts or refer to attached affidavit].

Continued on the attached sheet and made a part hereof:

_____ Yes _____ No

[Signature] _____

[Complainant]

Sworn to before me and subscribed
in my presence,

[Date and time] at [city and state]

[Signature of Judicial Officer] _____

[Name and title of Judicial Officer]

Affidavit in Support of Criminal Complaint—

[Caption]

_____, being duly sworn, deposes and says:

1. I am [set out official capacity, if any].
2. Upon my personal knowledge, on or about [date], in the _____ District of _____, _____ received and concealed a stolen motor vehicle, which was moving in interstate commerce, and then knew the motor vehicle to have been stolen.
3. I have personal knowledge of the following facts: [set forth specifics].
4. As to these facts, the sources of my information and grounds for my belief are as follows: [set forth specifics].

Wherefore, I pray that a warrant issue for the arrest of said _____

Subscribed and sworn before me this _____ day of [month, year].

[Signature]

United States Magistrate

_____ District of _____

Motion to Quash Arrest Warrant

[Caption]

Now comes the Defendant, _____, through counsel, and respectfully moves that the warrant of arrest upon which he was taken into custody be quashed upon the following grounds:

1. The warrant was issued without probable cause.
2. The person to be seized was not particularly described.
3. The affidavits upon which the warrant was issued were not sworn to before an official authorized to administer oaths in federal criminal prosecutions.

Dated: _____

[Signature]

[Name of Attorney]

Attorney for Defendant

