The Individual Master File (IMF) Report

The Individual Mater File (IMF) Report

The Secrets of the IMF revealed

What is an IMF?

How do you obtain an IMF?

What will an IMF tell you?

How can you use it to your benefit?
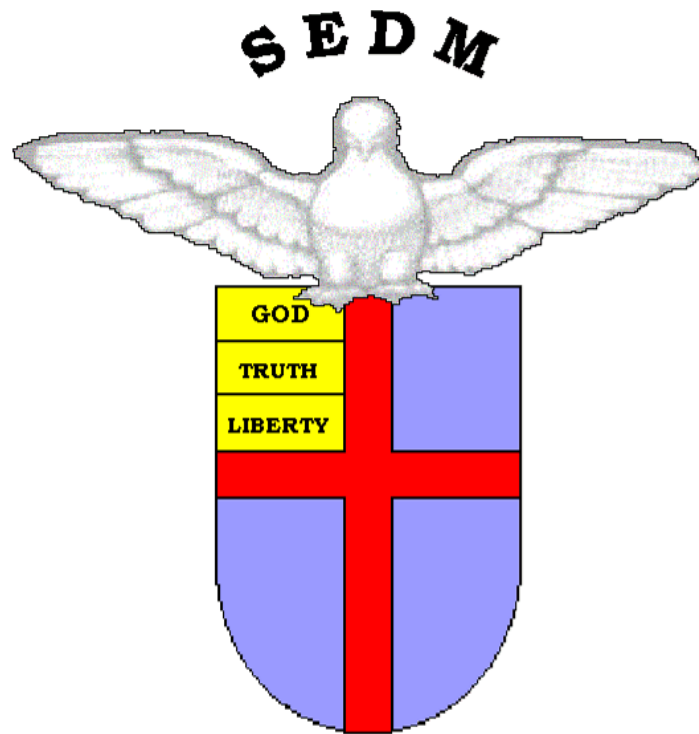
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Information Concerning the IMF

Now we are going to go in depth on the Individual Master File (IMF) and why this IRS computer printout which is sent out to many IRS offices across the country from the Martinsburg, West VA. This IMF transcript is kept on everyone who has ever filed a 1040 or 1040 ES and is very important to obtain.

We are going to teach you how to send for this basic yet important document and thus open up to you a new area of knowledge that has been hidden from you.

One of the many questions we are often asked is "Is my sending for my IMF going to raise any red flags with the IRS?" If you are not having any problems with the IRS and you have been self-assessing yourself, sending for your IMF is not going to raise any red flags. You will be sending your request to the disclosure office who has simply an administrative duty to pull this document up on their computer and send it to you. Since you have been self-assessing yourself do not expect any mean nasty items to be on your IMF. One of the many reasons for doing this is that it is to begin a learning process to build your confidence in using the Freedom of Information Act (FOIA) to your advantage. You might not have a problem with the IRS yet but a lot of people have dealing with, OSHA, EPA, FBI, CIA, FDA, etc. Well, guess what? All these government entities have a FOIA department and they have 20 days to answer your request. All states also have the same basic administrative procedure. Though it may be called by a different name and use somewhat different procedures.

Next, if you are already having a problem with the IRS and have been audited or have been sent any of the various letters and notices such as cp-515, cp-516, cp-517, cp-518, cp-504, etc. then we recommend you send for your IMF ASAP. Call our office for

help, as you will have a number of other FOIA requests you may also want to send for depending upon your situation.

If you have CID agents coming to your home, place of business, or where you work then you have a large number of FOIA requests that you just might want to send for ASAP.

What is so important about getting my IMF and doing all those FOIA requests, you might ask. Very simply put, you can use any number of IDIOT LEGAL ARGUMENTS that have rarely worked. Or you can start building a SUBSTANTIVE due process violation case against the IRS using the Internal Revenue files they create to use against you. In other words we will teach you how to turn the tables on them.

When passing the FOIA in 1974, Congress recognized the large number of documents that are created each day concerning individual citizens and said that it was the duty of the citizen to check their records to see if they are correct or incorrect. Congress has laid it out very clearly and the courts have upheld in a large number of cases that the IRS must give you these records. It is then your duty to check these documents to see if they are accurate or not. The next problem is that most of these documents are in computer codes, which requires specialized training to decode these files. VERY IMPORTANT: we have found many errors in these documents which are your documents and not only can we decode the files for you but also provide exact documentation by the use of exhibits that come from the IRS itself.

So, our goal is to teach you how to obtain your personal files from the IRS and learn to look for basic falsifications that the IRS has entered into your records with out

your knowledge. We then help you take all this information and turn it around to be used in your behalf.

As you may summarize from what you have read so far is that the IMF is a very important starting point in dealing with the IRS and that is why obtaining the IMF is so important to have a basic understanding of this information. Therefore please read to page 9 of this IMF operations manual produced by the IRS which we have enclosed. People started to request their IMF's from the IRS back in the 70's and over 25 years later, not only are people obtaining their IMF but also many other items, not only from the IRS but also from many different government entities.

We have come a long way in the past 25 years in uncovering what has and is being done to us concerning these secret files and with your help we will continue to expose the downright deceit and trickery employed against hard working Americans.

IMF
OPERATIONS

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30(55)0 IMF Operations

9

30(55)1 (1-1-96)
Introduction

30(55)1.1 (1-1-96)
Purpose

This Section provides a general description of Individual Master File (IMF) operations at the Martinsburg Computing Center (MCC).

30(55)1.2 (1-1-96)
Scope

(1) These procedures are limited to those general processes required at MCC to process data to the IMF, effect settlement with the taxpayer, and to output data for further processing into final outputs at Internal Revenue Service Centers.

(2) Returns processed to the IMF are limited to Estimated Tax Form 1040ES and Income Tax Forms 1040.

30(55)1.3 (1-1-96)
Related Text

(1) LEM 3(27)(68)0, ADP Systems Codes contains definitions, listings and descriptions of all codes used on Individual Master File source documents and outputs, including transaction and status codes.

(2) The definitions for all abbreviations used herein are also included in LEM 3(27)(68)0.

30(55)1.4 (1-1-96)
Related Projects

(1) 029 DATC/ASTA
(2) 404 Reconciliation of Withholding and Information Documents with IMF (IMF Delinquency Check)
(3) 405 Magnetic Tape Reporting
(4) 408 Processing Individual Income Tax Forms
(5) 418 Audit Selection System
(6) 438 Deceased Persons Accounting
(7) 439 IMF Account Numbers
(8) 444 Cleanup Operations
(9) 701 Accounting & Operating Reports
(10) 713 Accounts Receivable Reporting
(11) 704 Error Resolution
(12) 705 Taxpayer Service
(13) 706 Files Management and Service
(14) 707 Media Transport & Control
(15) 708 Accounting Control
(16) 709 SC Data Controls
(17) 710 Revenue Receipts
(18) 711 Credit and Account Transfer
(19) 712 Master Files Accounts Maintenance
(20) 714 Refund Transactions
(21) 715 Audit Adjustments
(22) 716 DP Tax Adjustments
(23) 717 Transcripts
(24) 718 Adjustment Controls

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

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

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

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

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

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

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

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

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

4 Audit History Section—contains information on the two most recent years which were under audit examination. The data retained includes the tax period, disposal code, audit results, and no change issue codes.

5 Offset Section—Used in communicating between different Programming Runs for the purpose of Offsetting between different Tax Modules of a taxpayer's account. When it has served its purpose, it is dropped from the file.

6 Vestigial Section—Shows data related to Tax Modules removed and recorded on the "Retention Register". Contains the tax class, cycle removed, control district office and tax period.

7 Energy Credit Tracking Section—Used by Examination Division for IMF Accounts containing residential energy credits.

8 IDRS Section—Shows modules under IDRS control indicating specific MFT, tax period and service center.

(d) Tax Module—A Tax Module contains records of tax liability and accounting information pertaining to the income tax and/or civil penalty for one tax period. Each Tax Module contains groups of data which are maintained in separate sections as follows.

1 Balance Section—This section contains the Module Balance (i.e., current debit or credit balance of tax and penalties); assessed and paid interest; Total Interest; Total Late Payment Penalty and Late Payment Penalty Assessed; Control DLN; and numerous indicators representing information pertaining to the module, some of which are: a duplicate or amended return was filed, taxpayer claimed more or less ES credits on the return than appear in the module, refund is being withheld, refund check was undelivered or redeposited, offsetting is being attempted, taxpayer claim is pending, IRS suit filed, closing code, Accounts Uncollectible, etc.

2 Status History Section—This section contains the current status of the module (i.e., current debit or credit balance of tax and penalties); if collection or refund action has been suspended, and if so why.

3 Settlement Section—Contains data necessary for return settlement such as AGI or total income, balance due or overpayment, tax liability per return, self-employment tax, ES credits claimed, overpayment credit elected to be applied to next year's estimated tax, penalties, etc. This section is deleted after settlement has been effected. The settlement section is not present for MFT 55.

4 Transaction Section—contains a transaction representing the filing of a return. This transaction contains only enough data to provide a historical record of the filing of the return and of the liability reported, late payment start date, and selected permanent audit data. In addition, the transaction section contains all transactions pertaining to the Tax Modules. They are derived from accounting input documents (i.e., tax liabilities, payments, assessments, abatements) and non-accounting transactions (i.e., Waivers, military deferment, etc.). Each tax transaction contains at least the Transaction Code, Cycle Posted, Document Locator Number, Transaction Date and Transaction Amount.

30(55)3 (1-1-96)
Functional Responsibilities—Martinsburg Computing Center

30(55)3.1 (1-1-96)
Initial Processing

Daily Transaction Input Files are received from Service Centers and controls are established per Project 709.

30(55)3.2 (1-1-96)
Regular Processing

(1) Validate SSN's on input transactions as specified in Project 439.

(2) Post input transactions and generated transactions to the Individual Master File consistent with established validity checks.

(3) Analyze account for offset of taxes found on F5329 for offset to IRA.

(4) Analyze accounts for offsetting debits and credits where permissable.

(5) Offset IMF overpaid modules to BMF balance due modules.

(6) Credit elect to subsequent tax periods—credit next year's estimated tax.

(7) Extract necessary data and controls for producing refund tapes for Financial Center.

(8) Extract necessary data and controls for Service Center output and message tapes.

(9) Maintain checks on all data and accounting controls.

(10) Ship output files and records to Service Center or elsewhere, as required, for preparation of final output products.

30(55)4 (1-1-96)
Administrative Rules

30(55)4.1 (1-1-96)
General

(1) Any transaction posting to the Individual Master File must contain an SSN. It must also contain a name control or check digit. The validation of the combination SSN and name control or check digit is covered in Project 439.

(2) Transactions can originate from input documents containing assigned transaction codes, amount fields input as part of another transaction or generated transactions.

(3) Each taxpayer is subject to the rules of validation. Refunds to be made are applied to outstanding liabilities if no offset restrictions. Under certain circumstances cross reference is made to a spouse's account, when the number is present, to effect settlement of the account.

(4) The criteria for TDA issuance is controlled by Project 721.

(5) All interest due taxpayer is computed on refunds to the 23C date less 12 days (13 days effective cycle 8435); offset interest to the due date of the liability. Credit interest is computed at 1% less than debit interest effective 1/1/87. Refer to 30(55)6.(12), Computation of Interest, for further details and applicable interest rate.

(6) All post-journalized transactions are assigned the 23C date of the cycle during which journalization takes place.

(7) The Assessment "23C" date will ordinarily be the Monday of the 2nd week following the week in which these transactions are processed and posted to the IMF Accounts, unless otherwise designated by Accounts Division in appropriate publications.

(8) When notices are to be sent to taxpayers that are identified as Spanish speaking District Office (DO) 66 and mail filing requirement of "7" the Computer Paragraph Number is in the 700 series.

(9) Extracts of IMF Accounts are not permitted when the extracts may be used outside of IRS, unless the Privacy Act or the Freedom of Information Act is utilized.

(10) Do not generate Check Digit for Accounts posted to the Invalid Segment.

(11) The term "Module Balance" as used throughout this Section is the algebraic sum of posted and assessed transactions excluding interest transactions.

(12) The term "Net Module Balance" is the algebraic sum of Assessed Transactions and consists of Module Balance, Interest Assessed and Interest Paid.

(13) The term "Total Balance" is the algebraic sum of "Module Balance," Accrued Failure to Pay Penalty (Total Penalty less Assessed Penalty) and Total Interest (Assessed Interest plus Accrued) and Interest Paid.

(14) Service Center Codes supersede Region Code. Generate the Service Center Code from the governing District Offices Code.

(15) When prescribed transactions post to a tax module, or a tax module must be analyzed for a scheduled action, compute interest, Failure-to-Pay-Penalty and/or delinquency penalty as required. Assess interest, assess Failure-to-Pay-Penalty when applicable, and assess delinquency penalty as prescribed in subsequent sub-sections. When interest and Failure-to-Pay-Penalty computations are made and not assessed, accrue the amounts of each computation.

(16) Non-Compute 1040—the input return record sent to MCC will contain a "Non-Compute" code of "2". MCC will determine if the return was timely filed; if not timely the non-compute code will be changed to a "1". Code "2" indicates special processing.

(17) Bypass normal processing, opening of modules, UPC, etc. when encountering Political Checkoff and IRA input "dummy" returns.

30(55)4.2 (1-1-96)
Types of Transcripts

(1) SPECIFIC
(2) OPEN
(3) COMPLETE
(4) ENTITY
(5) STEX (B Freeze)
(6) RFND LIT (TC 520)
(7) REFUND (TC 846)
(8) REFUND-E (TC 846)
(9) $1,000,000 Refund Transcript
(10) TDI-REFUND
(11) Refund-S (TC 846)
(12) TRANS—844 (TC 844)
(13) LITIGATION (TC 520)
(14) EXES-TC 840

    (15) OIC (TC 480)
    (16) NMFL (TC 480)
    (17) KITA (TC 01X)
    (18) COMBAT ZON
    (19) UNREVTC 520 (TC 520)
    (20) TDI RESRCH (See Project 720)
    (21) INTEL (See Project 735)
    (22) REACT NMF (TC 130)
    (23) CSED
    (24) MARRIED FILED SEPARATELY (TC 424)
    (25) MULTIPLE FILER (TC 424)
    (26) Cr El Decd (See Project 439)
    (27) TRFPENACT
    (28) VIRGIN IS (TC 150)
    (29) STAT TRANSCRIPT
    (30) QUEST W-4 (See Project 411)
    (31) FOLLOW-UP W-4 (See Project 411)
    (32) AMRH (See Project 712)
    (33) AM–X (See Project 712)
    (34) CV PN CRED
    (35) SC ADDRESS
    (36) Hostage
    (37) NRPS
    (38) DECDESCR
    (39) STIM
    (40) UNP 71 REL
    (41) RSED
    (42) A/R Clean-Up (see Project 713)
    (43) LPCANCEL
    (44) PMTOVERCAN
    (45) OICDEFAULT
    (46) DEFAULTFSC
    (48) TDIFRZ–150
    (49) TDI–EXAM
    (50) HighRisk
    (51) Deferral
    (52) HighDollar

30(55)4.3 *(1–1–96)*
Computer Paragraph Notices

    (1) 04—ES Penalty Waiver
    (2) 01—Deferral Reminder
    (3) 08—Refund Issued—SSA Records need correction
    (4) 09—Earned Income Credit Refund
    (5) 10—Combination CP 12 and CP 45
    (6) 11—Math Error—Bal Due
    (7) 12—Math Error—Overpayment
    (8) 13—Math Error—Settlement
    (9) 14/14E—Bal Due No Error
    (10) 15—Civil Penalty Assessment
    (11) 15B—100% Civil Penalty Assessment
    (12) 16—Math Error—Overpayment to other taxes (CP 12/49 combination)
    (13) 17—Refund unfrozen Excess ES Credits

(14) 18—Refund Discrepancy Unallowable
(15) 19, 20—Unallowable Partial Refund
(16) 21, 22—Audit/DP Tax Adjustment
(17) 23—ES Discrepancy—Bal due
(18) 24—ES Discrepancy—Overpayment
(19) 25—ES Discrepancy—Settlement
(20) 29—Amended Return Posted—No Original
(21) 30/30A—Estimate Tax Penalty
(22) 31—Undelivered Refund Check Notice
(23) 33—Error Delay Code—Settlement
(24) 34—Amended Return Acknowledgement Letter
(25) 35—Dup doc code 51 Return
(26) 36/36A—Duplicate Filing Condition
(27) 36C—Duplicate Filing—SFR
(28) 36D—Injured Spouse Duplicate Return
(29) 36S—Potential Scrambled SSN Duplicate
(30) 39—Spousal Offset In Notice
(31) 41—Unresolved Manual Refund Freeze
(32) 42—Spousal Offset Out Notice
(33) 44—Credit Avail Non-IMF Account (TC 130)
(34) 45/45S—Credit Elect/Subsequent Credit Elect
(35) 46—Manual Refund L or W coded return (TC840)
(36) 47—Offset to Support Obligations
(37) 49—Overpayment Adjustment—Offset
(38) 50—Form 1040EZI, Non-Compute Settlement
(39) 51—Form 1040, Non Compute Settlement
(40) 52—Adjustment in Self-Employment Income
(41) 53—Issued when EFT is not honored
(42) 55—Notice to Refile Return (See UPC 54)
(43) 57—Electronic Fund Transfer
(44) 60—Credit Reversal Adjustment Notice
(45) 62—Credit Transfer Notice
(46) 64—Tentative Carryback Notice
(47) 71/71A/71C—Annual Reminder Notice—Balance Due
(48) 83—Math Error Abatement Program Contact Letter
(49) 86—Potential Interest/Penalty Abatement
(50) 93—Duplicate Filing (Module w/TC 420 or 576)
(51) 96—Account Transfer-Out Transcript Notice
(52) 97—TC 841 Posting to module with TC 971 AC 11
(53) 98/98A—TC 930 Suspense Return
(54) 99—Missing Schedule Notice
(55) CP54—Invalid SSN
(56) CP59—Invalid S-SSN
(57) CP07—Estimated Payments Notice
(58) CP54 Q/F—Invalid SSN Notice
(59) CP32/32A—Recertified Refund Cancellation

30(55)5 (1–1–96)
Master File Input

30(55)5.1 (1–1–96)
Inputs From Service Centers and MCC

(1) Inputs to the Individual Master File include the following.
  (a) Service Center Daily Transaction Tape Files.

MF and IDRS Collection Status Codes   ADP 8-57

The Master File codes are MCC computer generated as a result of the computer analysis after a transaction has posted to the Master File. The Status Code designates the current collection status at the module and will appear on the MCC transcripts and on IDRS. The ten-digit abbreviations appear on the MCC transcripts only. IDRS Status Codes which are unique to IDRS or vary in meaning from similar MF status codes are identified by *. (Reference LEM Internal Revenue Manual 3(27){68}O)

line	code	debit	credit	eff-date	cycle-dt	notice
202	04			06/05/2000	00/21	
204	12		296.00	11/20/2000	00/45	

Line 202

04   IBA   EXT FILING   ADP 8-57
Extension of time tar filing granted. (Date of status Is extension application filing date.)
Installment basis, when applicable, to Forms 990Ct, 990Tt and 1120t.

Line 204

12   IBA   R OP OR PD   ADP 8-58
Return is filed or assessed or if MFT 13, TC 240 posted, overpaid or subsequently collected.

*12   N   ADP 8-58
Full Paid-generated in response to Command Code STAUP or when TC 291 appends to a module in IDRS Status 89 and the IDRS module balance Is less than $5.00.

Part two

Stop and let's go through just some of the information that the IRS gave to us in this manual. On page 03 under "purpose" we learn the IMF's are processed at the Martinsburg computing center in West Virginia.

Under "scope" the IMF's are limited to 1040 ES and 1040 tax forms. The reason this is so important is that what happens is the IRS will take your IMF file and input into your records that you are involved with some kind of a excise taxable activity which would only be found on a Business Master File (BMF) not a IMF. If you do not know how to separate this information out you will never know what is happening to you and may become another victim, when in fact you have many options available to use in your behalf.

Next, under Related Text, we find mention of a IRS document called LEM which stands for Law Enforcement Manual III and this is where we challenge you to go out and obtain one of these manuals. Gook luck! You will also notice that the LEM 3 refers to ADP system codes. ADP stands for automatic data processing this section us that all this information is to be found inside the LEM. The LEM is one of the top secret IRS manuals that they use against us, but will not allow us to have access to. However if you would like to have one of these manuals simply go to our literature list number 7 and order it.

We just can't stand any local, state, or federal entity using documents against us and not allowing us to have a copy of those documents.

Example: A radar case that we had years ago which was a real eye opener to us. We subpoenaed in the manual for the radar unit the cop was using. The police refused to

give us a copy even after one judge ordered that it be provided to us. Still the police department refused to give us a copy of the manual so we contacted the company that made the radar unit itself and obtained one from them. In the mean time we had to go to trial. After reading this manual it became apparent that every requirement that the company taught on how to correctly use this radar unit had been violated by the cop who pulled me over. We then put together about 100 questions to ask the cop on the stand about the use of the radar unit. After we got done with him we pulled out the manual we had obtained to be entered into evidence. As soon as we did that the judge, prosecution and cops started screaming at me that I had no right to have that manual. The cops cussed at me. In other words, I had exposed that this police department was misusing that radar unit. Kicking this experience up to another level we have found that IRS personnel are not following the procedures as clearly outlined in their manuals. The 1998 tax Reform act clearly says that the IRS personal must follow their manuals, yet they are still refusing to do so. Thus, one of the main points you might want to look for, are any due process violations that the IRS has committed against you, including any area of outright fraud, indirection, concealment, or failure to follow procedural requirements.

ONE VERY IMPORTANT POINT: You cannot defeat a negative, which all IRS allegations are. You must learn to take the negative and turn it into a positive. Confused? Let's put it this way. No team ever wins a game by not scoring points against the other team. Through years of study we have found a vast number of ways that you can score points against the IRS. Although we don't guarantee anything, we have a number of people who have had great success using this approach.

Page 4 under Concept Of The IMF, proves that there is a pre-determined way of keeping this information stored by the IRS and that it is accessible to them by punching a few keys on the computer.

On page 5, the last sentence it talks about the transaction code, cycle posted, document locator number, transaction date and transaction amount. We will cover these items as we go through the VIP Dispatches. We will show you just how important it is to have at least a working knowledge of these items.

Page 6 under "General" item number (5) this IMF manual brings up something called a "23c" date. Number (6) we find the "23c" again. Number (7) "23c" stands out again, items (5) (6) and (7) are all very, very important. When you learn how to develop just this one argument you just might be shocked and dismayed at all the out right lies and half the truths the IRS and courts will try to shove down your throat.

It even sometimes shocks us when we see all of the new idiot arguments the IRS comes up with regarding this 23c matter. The 23c is the Certificate of Assessment that is required to be produced by the IRS to you in a response to your FOIA request. They will do everything but produce that document and even lie to you about it.

Let's now move on to item number (9), which talks about getting your IMF through FOIA request, just as we teach. We have a sample enclosed for your use. Again at the bottom of page 9 under "types of transcripts," how many different types of IMF transcripts are there? Yes, there are 52 different types of transcripts. we are especially concerned with item number (1) specific, (3) complete, and (28) Virgin island (TC-150). Item number (1) the IMF specific is the primary document that you want to obtain. We provide you a sample FOIA format to use at the end of this section. Next is item number

(3) the IMF complete that you will be interested in obtaining and of course we have provided you with a sample format to use. The reason you are going to be wanting this IMF complete transcript is that there will be items posted to the complete that have been left off the specific in many cases. Item number (28) Virgin Island (tc-150); as some of you already know will play a very important role as we go through these "VIP dispatches."

One more item we need to cover which is VERY important under "Computer Paragraph Notices" at the bottom of page 9. You will notice there are 59 of these CP notices, which are all 2 digits such as CP 22, but there are no CP 3 digits to be found as they are only to be posted to the Business Master File (BMF). What the IRS will do is pull a "master file switch" taking you from a IMF to a BMF without you even knowing it, unless you become savvy to their many deceptions that they want to pull on us. Are you starting to get an idea that they have been pulling the wool over your eyes. Now we know its going to be hard but let's read pages 10 to 20.

(b) U.S. Treasury Transaction Tape containing Undelivered Refund Transactions and Cancelled Refund Transactions.

(c) MCC Weekly Processing Input File containing Resequence, Offset, Cross-Reference transactions.

30(55)5.2 (1-1-96)
Merging Segmented Posting Files

The above files, after being divided into segments and merged into posting files, are subsequently posted to the Individual Master File.

30(55)6 (1-1-96)
Weekly Processing of the Individual Master File by MCC

30(55)6.1 (1-1-96)
General

Generally, transactions input to the Master File must match an established account on both SSN and Name Control or Check Digit before the transaction can post to the account. Within prescribed limits, an account is established when no account already exists for the SSN of the input transaction. Establishment and updating of the Entity (transactions coded 000 thru 082), validation of the primary and spouse SSN, and merging of accounts is controlled in Project 439. Opening of tax modules and their related posted transactions, total account analysis, balancing, controls, and subsequent output is controlled by Project 445.

30(55)6.2 (1-1-96)
Transactions Posted, Generated and Related Projects

(1) All system projects are intertwined in the master file posting and analysis. For ease of reference, the related projects, their primary transaction codes can generally be equated as follows.

(a) 439 IMF Account Numbers—Transaction Codes 000–082.

(b) 408 Returns—Transaction Codes 150 and penalties 17X, 20X, 35X, 43X, 540, 57X, 610.

(c) 710 Revenue Receipts—Transaction Codes 66X, 67X, 46X, and penalties, i.e., 27X, 280, 360, 47X, 61X, 64X, 68X, 69X, 70X, 71X, 72X, 73X, 74X, 82X, 84X, and 89X.

(d) 711 Credit and Account Transfer—Transaction Code 370.

(e) 714 Refund Transaction—Transaction Codes 41X, 76X, 77X, 80X, 83X, 84X.

(f) 715 Audit Adjustments—Transaction Codes 30X, 420, 421, 81X, and penalties 16X, 20X, 24X, 27X, 28X, 31X, 32X, 33X, 34X, 35X, 37X, 77X.

(g) 716 DP Adjustments—Transaction Code 29X plus penalties in (1)(f) above with a few changes.

(h) 721 Delinquent Accounts—Transaction Codes 13X, 147, 148, 149, 422, 423, 424, 425, 460, 462, 47X, 48X, 50X, 51X, 52X, 53X, 540, 542, 550, 560, 564, 57X, 59X, 78X, 81X, 91X, 93X, 971.

30(55)6.3 (1-1-96)
Return Processing

(1) When the input transaction is a return (TC 150) it designates the assessable liability. Other transactions are generated when amounts are present in the return. The generated transactions are posted to the Transaction Section and the Module Balance is updated.

(a) TC 150—Assessment Amount—This field designates the tax liability.

(b) TC 610—Remittance with Return.

(c) TC 806—Withholding.

(d) TC 636—Separate Appropriation Credits.

(e) TC 766—Other Cash Credits.

(f) TC 200—Pre-determined TIN Penalty.

(g) TC 170—Pre-determined Estimate Tax Penalty.

(h) TC 160—Pre-determined Delinquency Penalty—When the return contains a penalty code of "1", penalty is computed at 5% regardless of dates, unless FTP has been computed for that same period. Refer to 30(55)6.7.

(i) TC 270, 340 and 770—Restricted Penalty & Interest for a return containing condition code Y, R and either A or F.

(j) TC 540—for a return containing condition code "A" or "F" (deceased taxpayer).

(k) Generate TC 570 if return has condition code 3 for additional liability. Also generate TC 570 if the return is blocked 920–929 or is an SFR. Also generate TC 570 with Julian Date 999 when posting a current year return with an overpayment of $300 or more if the account contains a module in status 03 or a module with an unreversed TC 42X.

(l) Earned Income Credit—For full years (decedent with short years allowed) beginning with tax period ending date of 12/31/75, a TC 768 (CR) will be generated with return due date and TC 150 DLN if the Earned Income Credit Computer field is present. TC 764 (CR) and TC 765 (DR) will be generated from manually input line item reference number 764, 765 respectively. It is, however, available for offset or refund whether or not the input return has tax or other credits present, but freeze conditions prevail.

(m) TC 160, 170, 270 and 340—Restricted Penalty and Interest for a return containing condition code "Z".

30(55)6.4 (1-1-96)
Subsequent Processing

(1) TC 148—causes an alert for Immediate Issuance of TDA when certain non-compliance conditions are present in any of the Tax Modules in an account. For details regarding TDA's see Project 721.

(2) TC 130—indicates a Non-Master File Liability Outstanding and posts to the Entity Section as it affects all modules.

(a) This transaction does not supersede any of the automatic offsetting routines but becomes effective at the time that refundable credits are available. The account is frozen for refunding and a CP 44 (Credit Available to Non-Master File Account) is output to the appropriate Service Center advising of the amount of credit available. CP44 will not generate, and a refund will be issued if the credit per module (before refund interest is computed) is under $25. Service Center will input TC 824 (Credit Transfer) for amount used when the credit available was sufficient to offset the Non-Master File liability. The credit module is

adjusted and the remaining refundable credit is released for refund. TC 820 (Credit Transfer) is input with amount used when the credit available was not sufficient. The Credit Module is adjusted and the freeze is retained to preclude refunding of future refundable credits. An account frozen by TC 130 is released with a TC 131 or 824.

(b) Reactivation of NON—IMF Liabilities—Additional analysis will be performed when TC 130 contains a closing code 03, 12, or 24–32. The closing code should correspond to an account written-off via TC 530 with similar closing codes on either BMF or IMF.

1 Change any previously posted TC 130 to 132 (except DMF TC 130).

2 Generate a TC 996 to BMF when the TC 130 contains a TIN and BMF name control in addition to the closing code and conditions outlined in Project 721 for COA, TPI, or UTCON type TDA's are met. For TC 996 generation, TC 130 and closing code will be treated the same as TC 530 and its related closing code. The TC 996 will contain IMF and BMF TIN and Name Control, closing code, and current IMF address data including current location code.

(3) Transactions Identified by Document Code 17, 18, 24, 45, 48, and 58—The input may contain both a Primary and Secondary transaction. These records, when identified, will be separated into two input transactions if transaction codes appear in both the Primary and Secondary transaction fields. These transactions will use the common record data from the input record such as Name Control, Check Digit, SSN, MFT, Period and DLN. The primary transaction field (which will be acceptable without a transaction date or amount) will always be used on every input record. The secondary transaction field, when used, will be for non-prejournalized transaction only. For secondary transactions, the transaction date will be generated by the computer in the normal manner for assessments. The majority of these input records will use only the primary transaction field. Other fields when not used will be blank. The Net Balance of the module is updated as each transaction is posted to the Tax Transaction Section. Exception: Transaction Codes 19X, 33X, and 34X update "Interest Assessed". Transaction Code 680, 670, and 640 may update "Interest Paid", Tax Balance Section.

(4) IDRS document code 24/48 transactions will post with cross reference tax period, SSN information, (beginning 1981 PY), and MFT (beginning 1985 PY).

(5) Combination debit/credit transactions are input with document code 34 and are processed as follows.

(a) These transactions contain cross-reference name control, SSN, MFT, 570 indicator, Correspondence Received Date and the period ending date. The debit amount is in the secondary amount field and the primary amount field contains zeros. The primary transaction code may be any of the following and must meet the posting validity checks. Otherwise, the entire transaction is unposted—612, 642, 662, 672, 682, 692 and 695. Where the (secondary) amount is greater than the amount of the transaction to be reversed, the entire transaction is sent unpostable (Code 189). Otherwise,

(b) the primary input transaction is posted using the secondary amount; and

(c) a resequence transaction is generated and contains all primary data substituted for secondary data (and vice versa) including the amounts with their signs reversed.

(d) Generate a CP 62 if the correspondence received date is significant.

(6) TC 930—indicates return required suspense. May contain Form 3520 indicator which provides a fact of filing. Opens a tax module for tax period requested and generates CP 98 Transcript Notice when the return posts.

(7) TC 534/535 Expired Balance Write-off and Reversal.

(a) TC 534 can be input with a zero or significant amount. If input with a significant amount, credit the net module balance and restrict interest and FTP penalty computations.

(b) TC 535 reverses TC 534 in whole or in part by debiting the Net Module Balance. If the amount completely reverses TC 534, remove the interest and FTP penalty computation restrictions.

(c) Unpost TC 534 with UPC 193 if the earliest CSED as extended has not expired or is not within 6 months of expiring, or the input amount is greater than the Net Module Balance.

(8) TC 604/605

(a) TC 604 will be generated to credit the module for the entire credit module balance when posting TC 971 AC 31 or 32.

(b) A TC 605 will be generated when posting a TC 972 AC 31 or 32. The TC 605 will be the same amount of money as the TC 604.

30(55)6.5 (1–1–96)
Unpostable Conditions

(1) For the master file, IMF unpostable codes are 3 digits with a 1 digit reason code.

(2) UPC 100 thru 299 are validated at MCC as prescribed in Projects 445, 439 and 723. In posting transactions to the IMF, many validity checks are performed to insure that correct data is posted and that erroneous conditions are not created in the account. Those transactions not meeting the validity checks are rendered unpostable and assigned an appropriate code. The types of validity checks can be grouped as follows.

(a) If no module exists for the period, a module will be created only by those transactions permitted to perform this function.

(b) Generally, reversal and correction type transactions may not post unless the original has posted. For example—a TC 171 (Abatement of Estimated Tax Penalty).

(c) When attempting to post reversal and correction transactions, further validity checks are made to insure that the amount does not exceed the amount of the original transaction.

(d) In addition to the above validity checks, the transaction date of some reversal and correction transactions must match the date on the original transactions. When all transactions for a taxpayer's account have been posted, an analysis is made of those modules to which any transaction has posted or which is coded for activity this cycle.

30(55)6.6 (1–1–96)
Return Analysis

(1) Analysis of the posted return as set forth below is performed only once, i.e., during the cycle in which the return posts.

(a) Selection of returns for Audit Discriminant Function—Returns are coded for various automatic, formula, or special selection. Details concerning techniques of classification are in Project 418. Various audit projects result in a refund freeze and special handling of notices, i.e., Joint Committee Cases, International Non-Resident Alien, TCMP, Abusive Tax Shelters and Unallowables Project.

(b) Form 1040C—Credits with return are input as Estimated Tax Payment TC430 Doc Code 61.

(c) Unallowable Partial Refund—Generate TC 576 whenever Audit Codes E, F or G are present and the module is in Credit Balance unless any TC(s) 918, 916, 914, 420, 424, or, Audit Codes L, N or V (allow TC 576 generation despite Audit Code V when the TC 150 contains Unallowable Code 81 or 83) are present. The amount to be the Unallowable tax amount is not to exceed the Total Credit Module Balance unless the Excess ES Credit Freeze is on, then the TC 576 amount will be specially limited.

1 Set the Unallowable 57 Hold and resequence all other "debit" transactions until this hold is released. Exceptions are: UPC 160 or 170 applies; TC 667, 896; TC 290 with priority code 6; TC 291 with priority code 7; TC 840 amount equals the latest TC 740; or TC 30X.

2 Release TC 576 Partial Refund Hold when posting a TC 30X, 571, 572 or TC 421 (doc. code 47) with disposal codes 20–25, 27, 29, 31–33, 35 or 36 and generate identical reversal TC 577.

30(55)6.7 (1–1–96)
Delinquent Return

(1) The due date for returns are as follows.

(a) Forms 1040, 1040A and 1040EZ is the 15th day of the fourth month after the close of the taxpayer's tax year.

(b) International return with DO 66 or 98 except Doc Code 72 and 73, a two month extension for filing is automatic. For Tax period 7612 only, an automatic extension of 3 months is applicable. For Tax Period 7712 only, an automatic extension of 10 months is applicable if the Form 2555 has also been filed.

(c) 1040NR with Doc Code 72, is the 15th day of the 6th month after the close of the taxpayer's tax year. 1040NR with Doc code 73 is the 15th day of the fourth month after the close of the taxpayer's tax year.

(2) Any return having a transaction date later than the due date plus grace period, and the tax liability exceeds the sum of all payments and credits as of due date, is subject to a delinquency penalty unless:

(a) an extension of time for filing has been posted and the return has been filed on or before the Extended Due Date;

(b) there is reasonable cause;

(c) TC 160 (Predetermined Delinquency Penalty) is present.

(d) TC 150 contains doc code 51 or 52.

(3) Computation of Delinquency Penalty—if extensions have been granted but the return is not filed within the extension date, penalty is computed from Extended Due Date. If there are no extensions, normal due date is used.

(4) Delinquency penalty is computed at 5% on those returns so coded, unless FTP has been computed for that same period. Effective 8601 or subsequent, if FTP has been computed for that period, compute delinquency Penalty at 4 ½. For all other, the penalty is 5% for each month (or fractional month) of delinquency but not to exceed 25%. This penalty rate

is applied to the balance due and a TC 166 for the penalty so computed is generated and posted to the module. A minimum delinquency penalty will be assessed if the return due date (including extensions) is after 12/31/82 and the received date is greater by 61 days. Minimum penalty shall not be less than the lesser of $100 or 100% of the amount shown as "Tax Due" on the return.

(5) Recomputation of Delinquency Penalty will be computer generated (TC 166) or (TC 167) if:

(a) Delinquent Return Switch is "I", Reasonable Cause Switch is off, and

(b) TC 460 posts a later extended due date then previous return due date or extended due date, or TC 462 posts restoring the original return due date; or

(c) Transactions Post which change the balance of tax due as of return due date.

(d) TC 162 posts.

(6) No recomputation of delinquency penalty is made if:

(a) TC 160 or 161 is present; unless reversed by TC 162;

(b) a transfer on Doc Code 51 or 52 is input;

(c) TC 150 is posted prior to 1/1/72;

(d) Return contains "Reasonable Cause"

(e) The Entity Combat Zone (ECZ) Indicator is set.

(7) If Adjustment Notices are not being issued this cycle as a result of TC 29X or 30X posted, and account is in non-TDA status, issue Adjustment Notice CP 21 or CP 22 per Project 715/716, if the current balance is $1 or more.

(8) Send Unpostable 179,

(a) TC 290/291 with significant amount and without TC 160/161/162 and the delinquent return switch is set, and significant TC 160/161 present in the module.

(b) TC 300/301 for significant amount without TC 160/161/162 and the delinquent return switch is set.

30(55)6.8 (1-1-96)
Estimated Tax

Posting Form 1040ES—Form 1040ES is posted to the Transaction Section of a tax module as a TC 66X, or a TC 430 (long entity) with an amount paid. Form 1040ES without remittances are not input.

30(55)6.9 (1-1-96)
Estimated Tax Penalty

(1) At return settlement time the posted transactions are analyzed to determine if an ES Penalty is applicable. An ES Penalty may also be computed after return settlement when posting and/or reversing timely credits. NOTE: Return posting to the Invalid Segment of the IMF will not stop assessment of penalty if applicable.

(2) Penalty rates are determined by the interest rate in effect for that period.

(3) ES Tax Base is the lesser of Acceptable Total Tax or Total Tax per Taxpayer (or Taxable Social Security RCMPT-CMPTR for returns posting in any cycle of 85) minus Minimum Tax, ALT Min Tax, (TY 8511 and prior), Social Security (URT/FICA) Tax on Tip Income not reported to employer, Uncollected Employee FICA and RRTA Tax on Tips (UPT/FICA), EIC, credit for Federal Tax on Special Fuels and Oils, WPT credit and Regulated Investment credit.

(4) When any of the following conditions are present the return is excluded from further analysis.

(a) Return contains computer generated condition code "P" indicating that ES Penalty is not applicable because income is below legal accepted tolerance.

(b) The return contains self-assessed ES Penalty (TC 170), there are zero estimate credits shown in module and no ES credits are claimed on the return. However, if a return contains a pre-determined ES Penalty (TC 170) and more ES credits are claimed on the return than are present in Taxpayer's account override exclusion and compute penalty. Retain an indicator of this "override" condition when a new ES penalty is generated overriding manual condition code "P" or TC 170 and print as an "E" on settlement notices.

(c) Transferred in return.

(d) Return is for tax period ending 6804 thru 6811.

(e) If ES Tax Base minus withholding is less than: $100 for TY 81 and prior; $200 for TY 82; $300 for TY 83; $400 for TY 84; $500 for TY 85 and subsequent.

(f) Return is for a Farmer or Fisherman and it was received and paid in full on or before the 75th day after the tax period. If preceding taxable year taxpayer was a Farmer/Fisherman then process as a Farmer/Fisherman even if the current year is not eligible.

(g) Non-Farmer/Fisherman return is full-paid and filed on or before the 46th day following the end of the tax period.

(h) Short year returns ("Y" coded with a change in Tax Period).

(i) Return is 1040NR Doc Code 72.

(j) The Entity Combat Zone (ECZ) Indicator is significant.

(5) If penalty is not precluded by (4)(a) above, the following analysis is made for possible penalty assessment. NOTE: When analyzing a return for possible penalty and the return is for a period prior to 8812 all references to 90% are to be 80%, 70% for a period prior to 6712.

(a) Settling returns prepayment credits to be used for selecting returns for ES Penalty computation is the sum of TC 71X (except TC 716 in the cycle the TC 716 posts), 80X (including withholding tax from income return) TC 666, 667, 76X excluding Doc Code 08, TC 43X, unreversed 660, unreversed 610, unreversed 670, and remittance with return (including TC 97X) with a DLN control date on or before the 30th day following the tax period.

(b) If taxpayer has a settled return for the immediate preceding year, compare prepayment credit (per a. above) to Acceptable Total Tax Liability (including S.E. Tax, less Minimum Tax, Social Security Tax on Tip Income and Uncollected Employee Social Security Tax on Tips) less prior year liability limit. If prepayments are less, make analysis as per c. below, otherwise exclude current return from penalty.

(c) Compare prepayment credits per (5)(a) above to 90% (66 ⅔% if Farmer or Fisherman) of settling returns Total Tax per Taxpayer (including self-employment tax, less minimum tax, Social Security Tax on Tip Income and Uncollected Employee Social Security Tax on Tip Income). If prepayments are equal or greater—exclude from penalty computation. If prepayments are less, the penalty is to be computed.

(6) If credits are insufficient to preclude computation of penalty, the available credits are analyzed by dates and amounts and penalty applicable to each installment is computed. (For International returns due date, see Delinquent Returns.) When the total penalty exceeds tolerance, a TC 176 (generated ES Penalty) is generated and posted. This amount is added to the module balance and will be included in return settlement 1st Notice.

(7) A percentage of forgiveness is computed by dividing the sum of wages plus pensions by the AGI. The estimated tax penalty will be multiplied by the percentage to determine the amount of penalty to be waived. This processing is effective for tax periods 8712–8811.

(8) If the taxpayer is considered "High Income", compute ES Tax Penalty using the prior year tax base for the first installment only. The difference between the first installment prior year base and current year base must be added to the second installment due amount. "High Income" taxpayers are taxpayers with an ES Penalty or ES Payment within the 3 prior years and an AGI over $37,500 and be greater than $20,000 over the prior year amount for FSC 3. For FSC other than 3, the AGI must be over $75,000 and be greater than $40,000 over the prior year amount.

(9) For tax periods 9412 and later, for high income computations, compute using the lesser of 90% of the current year ES Tax Base on 110% of the Prior Year ES Tax Base.

30(55)6.(10) (1–1–96)
Analysis and Application of ES Prepayments Claimed and Posted

(1) In effecting settlement of a return, Prepayment Credits Posted are compared to the ES Credits Claimed on the return. For 1040SS and 1040PR returns, no cross-reference to spouse's account is made for determining the issuance of an Estimate Tax Discrepancy Notice. If an ES Credit Transferred—In (TC 666) is present the module is settled using credits posted because this indicates that credit from a spouse's module has been transferred in.

(2) The Prepayments Posted are allowed in settlement and an Estimate Tax Discrepancy Notice is issued if the ES Credits Claimed are equal to or within the given tolerance of the Prepayments Posted.

(3) If ES Credits Claimed are less than Prepayment Credits Posted by given tolerance or more, the ES Credits Claimed are allowed in settlement; however, if this results in a balance due, additional prepayments are allowed (up to the excess amount posted) to bring balance to zero. If any remaining unapplied excess prepayments posted are less than the given tolerance they are allowed in settlement and an Estimated Tax

Discrepancy Notice is issued. However, if the remaining excess prepayments posted are equal to the tolerance or more, they are frozen to make credits available for transfer when claimed by a spouse. The freeze is not imposed if there is an indication that a claim on these excess credits cannot be made or will not be made by a spouse. The claimed overpayment is refunded manually.

(4) If ES Credits Claimed exceed ES Credits Posted by the tolerance amount or more and either Return or ES Declaration contains a spouse's SSN search the DMF for the spouse's SSN and if found, generate a resequence record under TC 667. The module is frozen from settlement, refund, offset-in and offset-out until a transaction (TC 666) credits the module for the excess ES Credit Claimed or a TC 666 with a zero amount. A non-joint return is coded to take credits from the spouse's module ONLY if joint credits are available. If no secondary SSN is on the return or ES Declaration, the return is settled with credits posted and an estimate tax discrepancy notice is issued.

(5) An ES Credit Transferred-In (TC 666) is always sent back to the original account whether or not the spouse's account is found and whether or not credits were transferred.

30(55)6.(11) (1-1-96)
Debtor Master File (DMF)

(1) The DMF will be initialized for the valid segment:

(a) At conversion when there is an ES credit present in a module and there is either a return present with the Excess ES Credits freeze or no return present;

(b) Weekly by issuance of an update record whenever an ES credit posts to a module (excluding current year plus one) with no return present. Do not issue an update record if the DMF has already been initialized for that account or if the module balance is not credit.

(2) Issue a weekly delete record to DMF when all modules within the account that meet the conditions in (1) above have:

(a) TC 150 posted without the Excess ES Credit freeze and/or,

(b) TC 667 posted or attempting to post.

(c) TC 026 posts.

30(55)6.(12) (1-1-96)
Failure to Pay Penalty

(1) These requirements are criteria for computing or recomputing of a failure to pay penalty. This penalty is applied where there is an unpaid tax liability as the result of a return posting or a deficiency adjustment posting, and there is no exclusion for failure to pay. NOTE: Effective 8601 and subsequent, FTP and Delinquency will be assessed concurrently. Prior to this change FTP was not computed for any month during which Delinquency Penalty had been charged unless Minimum Delinquency had been assessed.

(a) START DATE—This date indicates the penalty month and its beginning date. It normally will be return due date or extended return due date. However it may under certain circumstances be the notice date. Delinquent returns, timely filed returns, extended returns, transferred returns and deficiency adjustments are analyzed in detail for this determination.

(b) SUBSTITUTE DATE—When the penalty is not applicable to a prior amount or tax period and a tax adjustment posts, the adjustment date establishes the 1st penalty month and its beginning date.

(c) MONTH—is the period that begins with the day in the START or SUBSTITUTE DATE and terminates with a day numerically corresponding in the following calendar month. When the start day is the last day of a calendar month, the month period is the calendar month. If it is in the month of February and there is no corresponding date, consider the last day in February as the ending date.

(2) Without an automatic extension for filing, returns with a period ending date of 12/31/69 or later and tax adjustments posting 1/1/70 or later are considered for penalty. If an automatic extension is present, those returns with a period ending date of 12/31/71 or later are used.

(3) Exclusions from penalty are listed below.

   (a) Reasonable Cause

      1 Condition Code "M" input with TC 150

      2 TC 270 (Manual Assessment) or TC 271 (Manual Abatement) Exclude TC 271 RC 62.

   (b) Military Deferment (including those accounts with a significant Entity Combat Zone (ECZ) Indicator).

   (c) Transfer-in transactions.

   (d) Net of TC 150, 290, 291, 300, 301 equals zero.

   (e) Unreversed TC 534 with significant amount.

(4) Determine the number of months and fraction of a month (a fraction will constitute a month) not to exceed 50 months, commencing with the START or SUBSTITUTE DATE to the interest computation date that the tax is unpaid. NOTE: Prior to cy 8601 when a delinquency penalty had been assessed and was used to determine START DATE, no FTP may have been computed during this same period of time and the maximum of 50 months was reduced by the number of months used to determine delinquency penalty. This did not apply when Minimum Delinquency Penalty had been assessed.

(5) Determine the amount on which to compute penalty by establishing the net amount of unpaid tax at the beginning of each month, starting with the applicable START DATE. Unpaid tax at the beginning of any month is the algebraic sum of tax assessments and abatements as of that date and all unreversed credits with transaction dates or effective dates on or before that date. (Penalty does not apply to assessed interest or penalty amount.)

(6) To compute or recompute the FTP penalty, arrange the transactions into effective date sequence. Determine the net unpaid tax as of the beginning of each month and multiply the unpaid tax for each month by .5% to get the monthly penalty. If status 58 or TC 370 with document codes 100–119 or 140–149 is present, FTP will be computed at 1% per month. FTP will also be computed at 1% for TC 971 AC35. Accumulate monthly penalty amounts to determine total penalty. When tax adjustments are present, dates for the adjustments and penalty computations must be compared. In addition all credits must be adjusted so that they are not considered in penalty computation.

(7) The FTP penalty is assessed with issuance of 1st Notice at return settlement time and at issuance of Adjustment Notice CP 21 or 22 when module is in non-TDA status. When the penalty is paid, apply the credits to assessed tax, penalty and interest in that order. If the module balance is still credit assess any unpaid FTP penalty (not to exceed amount of available credit). Should a credit balance remain, satisfy the unpaid interest and/or offset or refund as applicable.

(8) Accrue the penalty whenever the total penalty due is greater than assessed penalty.

(9) When the total penalty as determined by recomputation is less than net assessed penalty, abate an amount equal to the differences. Never abate penalty in excess of amount of net penalty. Generate the FTP Penalty Abatement but determine whether the transaction should be unposted or abated.

(10) When a manual FTP penalty posts the penalty assessed will be updated to equal the amount of the manual FTP penalty, a restriction against computer generation of the penalty will be set, and the module balance will be updated for the manual FTP penalty amount. When a manual abatement is encountered, it must be equal to or less than the assessed FTP penalty otherwise it will unpost. If it does post update the module balance and penalty assessed amount and restrict computer generation of the penalty. When posting a FTP penalty restriction deletion it will unpost if a manual FTP penalty or a manual FTP penalty abatement isn't present; otherwise release the restricted computer generation freeze and recompute penalty.

(11) Establish an FTP free period for TC 520 CC 81, 83, and 85–89.

30(55)6.(13) (1-1-96)
Computation of Interest

(1) General—Interest is computed from the due date, at the rates and for the periods listed in IRM 31(59)0.

(2) Tax Motivated Assessments—TC29X/30X containing credit reference number 221 will cause interest to be computed at 120% and 100% of the effective interest rate on the CRN amount. Normal interest computations will be done on the tax adjustment amount. This processing is obsolete 1/90.

(3) Definitions of Interest Terms and Codes

(a) Assessed Interest—is the interest recorded on the Tax Module.

(b) Accrued Interest—is the term for expressing the difference between interest assessed and total interest due at any given date.

(c) Interest Due—is the total interest due and includes both interest assessed and interest accrued.

(d) Interest Recomputation—is the method of arriving at interest due by recomputing interest on balance from transaction to transaction.

(e) Abate Interest—this constitutes a reduction of interest assessed by a partial or full reversal.

(f) Interest Paid—is the term given to credits which are applied against assessed interest.

(g) Credit Interest—defines interest due the taxpayer which has not been refunded.

(h) Interest Tolerance—describes certain allowances made for underpayment or overpayment governed by administrative policy.

Part 3

After reading through the last 10 pages you may ask yourself, "just what is this all about anyway", or "who in their right mind is going to take the time to go through any of this"? Don't feel bad we have only found a couple of people who work for the IRS who even have a slight clue of what all this means. To make matters worse no U.S. Attorney, Judge, other attorneys, or CPA's even have a clue as to what this means. Nor have we found one Revenue agent, revenue officer or CID special agent who has a clue either.

That is why with a little working knowledge of what some of these items mean, you can start asking pertinent factual questions that the IRS does not want to deal with. There are some specific issues that they will do anything to keep from public knowledge.

Go to page 11 return processing item number (1) and again we find the (TC 150) which designates the assessable liability. As we explained before you must assess yourself or the IRS will create what they call a "dummy return" or substitute for return, and make a TC 150 assessment against you. See the FOIA section for a TC 150 FOIA request.

Again item (J) (H) we find FTP, which means: failure to pay. Item (K) we find the term "Julian Date". The Julian calendar is what the IRS uses in its computer codes. The Julian calendar is just the days of the year from 1 to 365. So, Julian date 001 is January 1st and so on. In the back of the IRS ADP 6209 manual you will find the Julian calendar.

At Item number (1) (I) under earned income credit, we again find a "TC 150 DLN", "DLN" stands for Document Locator Number which is the 14 digit number you

will find posted to an IMF, BMF, NMF (Non master file). We will show you how to break these DLNs down later and show you why these DLNs are so important.

Next section on page 11 under "subsequent processing" items (1) we find transaction code 148, which designates someone as a tax protester. Under the 1998 Tax Reform and Restructuring act, the IRS is no longer allowed to use transaction code 148, but some IRS Personnel still have yet to get the word and it has still been showing up in some IRS paperwork. The next item we need to point out in that same section we find the term "TDA" which stands for taxpayer delinquency account.

Item (2) we again find Non-Master file liability and as you will learn later without a Non-Master file transcript there is no liability. Our March issue will cover the NMF. Again on the last line of page 11 we find "the Non-Master file liability". Again no NMF liability no taxes owed.

At the top of page 12 under number 2 we find a somewhat complicated and confusing inter-workings of the IRS. They will try to convert you from IMF status to a BMF status thus trying to make you liable for some type of tax.

The rest of this IMF manual deals mostly with penalties. We have four different penalty manuals, which we have listed on our literature list.

The FOIA Section

1.) FOIA request for your "IMF"

A. Once you have it ready to go you can send it in by regular mail to your correct local disclosure office.

B. We suggest in keeping this request very simple by first not mixing this IMF a request with any other request

C. Try to keep your request limited to 3 or 4 years at a time.

D. Your IMF will generally run 1 3/4 to 2 years behind so if you ask for the year or even last years IMF it will probably not yet be put into the system.

E. We provide a complete decoding service of your IMF that goes into great depth and detail. The decoding that we do will include another group of FOIA request for you to send in which are based upon what the IRS has posted to your IMF and other documents.

F. The first 100 pages of a FOIA request are free then it is 15 cents a page after that.

G. The IRS has 20 days to respond to your request but do not hold your breath. Some people get responses with in a couple of weeks and with others it takes months.

H. When you go to send in this or any other FOIA request it has to have a notarized statement or you can use your driver's license copied onto the FOIA request to verify that you are the correct requester.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
    addr1
    addr2

Account acct

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

4.   This is request pertains to the years: yrs

5.   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.

name. Requester

AFFIDAVIT

COUNTY OF _____)
) SS
STATE OF _____)

SUBSCRIBED AND AFFIRMED:

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

Witness my hand and official seal.

_____

Signature of Notary

_____

Name

2.) The FOIA request for your BMF (Business Master File)

A. There are two important points to remember concerning a request for a BMF.

1. In order to have a BMF you must have an EIN (Employer Identification Number).

2. If you have a TIN (Taxpayer Identification Number) you will not have a BMF.

B. If you have a trust with an EIN then you can send off for the BMF of that trust.

C. We also offer decoding process for your BMF which can get somewhat complicated and time consuming depending on how large your BMF is.

D. We will cover the BMF in greater detail in the February 2002 issue.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
      addr1
      addr2

               Account acct

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

4.   This is request pertains to the years: yrs

5.   Please send me a copy of all the documents maintained in the System of Records known as Returns and Information Processing D:R:R - Treasury / IRS Business Master File Specific (BMF): 24.046 which pertains to the above referenced SS# and person.

DATED:

                        Respectfully,

                        name. Requester

3. FOIA request for your AMDISA file

A. We want to bring this request to your attention as it will reveal some very important information.

B. If you have been self-assessing yourself you will not have an AMDISA file.

C. If you have received a CP-504 letter or a CP-518 letter from the IRS then you will most likely have an AMDISA file.

D. This AMDISA file will be usually generated by the IRS when they convert you from an IMF to a BMF.

E. One important item this will show is the excise taxable activity that the IRS has placed you into.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
      addr1
      addr2

<div align="center">Account acct</div>

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

4.   This is request pertains to the years: yrs

5.   Please send me a copy of the AMDISA File, which pertains to me.

Dated:

Respectfully,

_____
name. Requester

4. FOIA request for a "SFR" (Substitute for Return)

A. If you have not been sending in a 1040 for several years and you received your IMF from the IRS on of the first items you will want to look for is a SFR posting on the lower left hand side of the first page of your IMF.

B. You will want to send for this FOIA as soon as possible.

C. This is what the IRS calls a "dummy return", read the transcript in the TC-150 section, part 1.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
     addr1
     addr2

Account acct

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

4. This is request pertains to the years: yrs

5. Please send me a copy of the "Substitute for Return" prepared by the Internal Revenue Service that pertains to me.

6. Please send me a copy of the document that identifies the person who prepared the substitute for return in my case.

7. Please send me a copy of the documents upon which the audit function based the substitute return.

Dated:

Respectfully,

_____
name. Requester

43

5. FOIA request concerning a TC-150

A. On all the IMFs there will be posted a 150 code.

B. You will find in this issue some of what we have collected on the TC 150 issue.

C. As we keep researching into that information it just goes deeper and deeper as we peal off the layers of deceit and lies.

D. Some of these FOIA requests such as this one includes a background statement with exhibits included to narrow down the issue. So, this is a more deluxe request.

E. If you look at the bottom of the page you will see 1 of 2. The second page is your notary statement.

FREEDOM OF INFORMATION ACT REQUEST

DEPARTMENT OF THE TREASURY   CERTIFIED MAIL:
DISCLOSURE OFFICER   7000 0520
INTERNAL REVENUE OFFICE   RETURN RECIEPT REQUESTED

Concerning:
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 with those portions reasonably segregable. I am waiving personal inspection of the requested records.

    3. I am attesting under the penalty of perjury that I am a category (E) requestor.

    4. PLEASE EXPEDITE THIS REQUEST.

    5. BACKGROUND: According to Manuel 30(55)0 IMF OPERATIONS pages 30(55)0-7 and 30(55)0-8 which indicates types of Transcripts at 30(55)4.2 item number twentyeight (28) states VIRGIN IS (TC 150). See Attached Exhibit 'A'.

    6. Please provide Requester   Social Security Number the following, can a Transaction Code (TC 150) mean anything else BUT a Virgin Island Citizen if so please send me the documentation substantiating that request.

(7) The Assessment "23C" date will ordinarily be the Monday of the 2nd week following the week in which these transactions are processed and posted to the IMF Accounts, unless otherwise designated by Accounts Division in appropriate publications.

(8) When notices are to be sent to taxpayers that are identified as Spanish speaking District Office (DO) 66 and mail filing requirement of "7" the Computer Paragraph Number is in the 700 series.

(9) Extracts of IMF Accounts are not permitted when the extracts may be used outside of IRS, unless the Privacy Act or the Freedom of Information Act is utilized.

(10) Do not generate Check Digit for Accounts posted to the Invalid Segment.

(11) The term "Module Balance" as used throughout this Section is the algebraic sum of posted and assessed transactions excluding interest transactions.

(12) The term "Net Module Balance" is the algebraic sum of Assessed Transactions and consists of Module Balance, Interest Assessed and Interest Paid.

(13) The term "Total Balance" is the algebraic sum of "Module Balance," Accrued Failure to Pay Penalty (Total Penalty less Assessed Penalty) and Total Interest (Assessed Interest plus Accrued) and Interest Paid.

(14) Service Center Codes supersede Region Code. Generate the Service Center Code from the governing District Offices Code.

(15) When prescribed transactions post to a tax module, or a tax module must be analyzed for a scheduled action, compute interest, Failure-to-Pay-Penalty and/or delinquency penalty as required. Assess interest, assess Failure-to-Pay-Penalty when applicable, and assess delinquency penalty as prescribed in subsequent sub-sections. When interest and Failure-to-Pay-Penalty computations are made and not assessed, accrue the amounts of each computation.

(16) Non-Compute 1040—the input return record sent to MCC will contain a "Non-Compute" code of "2". MCC will determine if the return was timely filed; if not timely the non-compute code will be changed to a "1". Code "2" indicates special processing.

(17) Bypass normal processing, opening of modules, UPC, etc. when encountering Political Checkoff and IRA input "dummy" returns.

30(55)4.2 (1-1-96)
Types of Transcripts

(1) SPECIFIC
(2) OPEN
(3) COMPLETE
(4) ENTITY
(5) STEX (B Freeze)
(6) RFND LIT (TC 520)
(7) REFUND (TC 846)
(8) REFUND-E (TC 846)
(9) $1,000,000 Refund Transcript
(10) TDI-REFUND
(11) Refund-S (TC 846)
(12) TRANS—844 (TC 844)
(13) LITIGATION (TC 520)
(14) EXES-TC 840

Exhibit A 1 of 2

    (15) OIC (TC 480)
    (16) NMFL (TC 480)
    (17) KITA (TC 01X)
    (18) COMBAT ZON
    (19) UNREVTC 520 (TC 520)
    (20) TDI RESRCH (See Project 720)
    (21) INTEL (See Project 735)
    (22) REACT NMF (TC 130)
    (23) CSED
    (24) MARRIED FILED SEPARATELY (TC 424)
    (25) MULTIPLE FILER (TC 424)
    (26) Cr El Decd (See Project 439)
    (27) TRFPENACT
    (28) VIRGIN IS (TC 150)
    (29) STAT TRANSCRIPT
    (30) QUEST W-4 (See Project 411)
    (31) FOLLOW-UP W-4 (See Project 411)
    (32) AMRH (See Project 712)
    (33) AM—X (See Project 712)
    (34) CV PN CRED
    (35) SC ADDRESS
    (36) Hostage
    (37) NRPS
    (38) DECDESCR
    (39) STIM
    (40) UNP 71 REL
    (41) RSED
    (42) A/R Clean-Up (see Project 713)
    (43) LPCANCEL
    (44) PMTOVERCAN
    (45) OICDEFAULT
    (46) DEFAULTFSC
    (48) TDIFRZ—150
    (49) TDI–EXAM
    (50) HighRisk
    (51) Deferral
    (52) HighDollar

30(55)4.3 (1-1-96)
Computer Paragraph Notices

    (1) 04—ES Penalty Waiver
    (2) 01—Deferral Reminder
    (3) 08—Refund Issued—SSA Records need correction
    (4) 09—Earned Income Credit Refund
    (5) 10—Combination CP 12 and CP 45
    (6) 11—Math Error—Bal Due
    (7) 12—Math Error—Overpayment
    (8) 13—Math Error—Settlement
    (9) 14/14E—Bal Due No Error
    (10) 15—Civil Penalty Assessment
    (11) 15B—100% Civil Penalty Assessment
    (12) 16—Math Error—Overpayment to other taxes (CP 12/49 combination)
    (13) 17—Refund unfrozen Excess ES Credits

Exhibit A472 of 2

6. FOIA request for a 14 digit Document Locator Number (DLN)

A. On your IMF, BMF, NMF and other documents that you can obtain from the IRS using the FOIA procedure there will be a number of DLN's which we recommend you request.

B. We recommend that you ask for only one of these items at a time as each one is a separate issue. There are some people who for some reason, which is not clear to us that will put 20 or 30 plus request into one FOIA request. In other words they are trying to eat the whole hippo in one bite to which we haven't seen work yet. Then when they receive no reply to their request, they go around telling people that they tried that FOIA stuff and it didn't work. We can only tell you that we have helped people send out thousands of FOIA request and they have received back thousands of responses.

C. When we decode your IMF, BMF, or NMF we always do the DLN FOIA's as part of our services and send them to you to send into the IRS disclosure officer.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
     addr1
     addr2

                Account acct

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

4.   This is request pertains to the years: yrs

5.   Please send a copy front and back of the document identified by Document Locator Number (DLN) (14 digit number) which pertains to the above referenced SS# and person.

DATED:

                Respectfully,

                name, Requester

7. FOIA request for a AIMS file

A. AIMS stands for Audit Information Management System.

B. If you are having a little spat with the IRS and you receive your IMF there could be a posting of a AIMS file. If you never send off for your IMF file how are you going to know about this file? There are actually people who go around the country telling people not to do FOIA request because by doing so you are giving jurisdiction to the IRS over you. We say what a silly idiot argument. If they already have a file on you that argument is moot.

C. When you send for this file you might get one or 100 pages of information back, as each one is different. We ask, Is it better to have and know about what the IRS is creating and putting in your file or not?

D. When we decode your file we will do this FOIA request for you also if we find this AIMS file listed on your IMF or BMF.

E. The AIMS file is a computer system designed to give examination division information division information about the returns open to examination.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: name
      addr1
      addr2

           Account acct

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

4.   This is request pertains to the years: yrs

5.   Please send me a copy of the document identified as the AIMS File, # which pertains to the above referenced SS# and person.

DATED:

                             Respectfully,

                             name. Requester

8. FOIA request for an IMF COMPLETE Transcript

A. The reference to the IMF complete transcript is found on page 7 of the IMF operations manual under types of transcripts item (3).

B. The "Complete Transcript" will in many time have additional transaction codes posted on it that are not found on the IMF.

PRIVACY ACT REQUEST

Internal Revenue Service

TIN/SSN:
(for information purposes only)

Request for Notification and Access

Attn: Disclosure Officer

Dear Sir:

　　1. This is a request under the Privacy Act, 5 USC 552a. This is my firm promise to pay fee and costs for locating, duplicating and reviewing the documents and information requested herein below. Please respond to this request within 20 days after receipt of same, and by also referencing the above assigned certified mailing number.

　　2. If some of my request is exempt from release, please send me those portions which are reasonably segregatable, and provide me with an indexing, itemization, and detailed justification concerning information which you are not releasing.

　　3. This request pertains to tax years　　　　through

　　4. Please send me a copy of all documents maintained in a system of records known as "Complete Master File," which pertain to me. I am only interested in a copy of the "Complete Master File" type transcript.

Respectfully,

DATED:_____

RECEIVED
608
SEP 2 7 2001
INTERNAL REVENUE SERVICE
FRESNO, CA

FRESNO
INTE

OCT 03 20

9. FOIA request for Transaction codes 910, 914,916,or 918.

A. On the enclosed sample IMF which is right after this FOIA section, you will find 2 914 transaction codes.

B. These codes stand for a on going criminal Investigation to which most people will not even know about until you or your friends get a knock on your door by two CID agents.

C. If you should get your IMF and it contains one of these codes there are a number of detailed FOIA requests that you will be wanting to send out including this one.

D. If you do not have one of these transaction codes posted to you IMF or BMF then you would NOT send this request in.

FREEDOM OF INFORMATION ACT REQUEST

District Director   Your Name
Internal Revenue Service   Mailing Address
Mailing Address   City, State, Zip
City, State Zip   SS# 000-00-0000

Dear Director:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).

2. If some of this request is exempt from release, please furnish me with those portions reasonably segregable. I am. waiving personal inspection of the requested records.

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

4. This request pertains to the years:

5. Please send Requester a copy of all documents maintained in the system of records identified as Controlled Accounts (open and closed), Criminal Investigation Division TC 910, TC 914 TC 916, TC 918, - Treasury/IRS 46.004, which pertain to the Requester.

6. Please send Requester a copy of all documents maintained in Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigations Division-Treasury / IRS 46.009 which pertain to the Requester.

7. Please send Requester a copy of the 6001 Notice served upon the Requester, requiring the Requester to file a return.

Dated:

                                           Respectfully,

                                           _____
                                           Your Name, Requester

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

(NOTARY)   _____
                                           Your Name, Requester

10. Generic FOIA Request form Sample

A. Here is a sample of just a generic FOIA request format.

B. In our FOIA issue we will cover in greater detail the specifics of FOIA request what you can ask for and what you cannot.

C. The federal court system is exempt from the FOIA process under 552(a)

D. Under FOIA you need to ask for a specific document, as they will not do anything they consider legal research.

FREEDOM OF INFORMATION ACT REQUEST

District Director   Your Name
Internal Revenue Service   Mailing Address
Mailing Address   City, State, Zip
City, State ZIP   SS# 000-00-0000

Dear Director:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601. 702 (f).

2. If some of this request is exempt from release, please furnish me with those portions reasonably segregable. I am waiving personal inspection of the requested records.

3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST. (REMOVE THE REQUEST TO EXPEDITE IF NOT NEEDED.)

4. This request pertains to the years:

5. Please send me a copy of

Dated:

                                    Respectfully,

                                    _____
                                    Your Name, Requester

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

                                    _____
                                    Your Name, Requester

Sample of an IMF MCC Transcript specific

We have included a sample IMF for an example; you can locate some of the more important items for yourself on your own IMF. You will find that all IMF's are formatted the same.

The sample included in this example is only two pages long, but eight pages were used for decoding. The eight pages do not include all the FOIA request and other items that would be included. Some IMF's are longer and have proportionally more pages for decoding.

Decoding divides the IMF into three main sections.

1.   The first section decodes the first page of the IMF. Item numbers 01 to 14 are assigned to items on that first page and those numbers are written on the IMF first page. The decode of that first page list each item so numbered and states the appropriate interpretation or description of each item.

2.   The second section deals with the transactions listed on the IMF along with the associated "document locator number", effective date, and cycle date. Each transaction is assigned a "line Number" which is marked on the IMF itself and is duplicated in the chart on page 3 of the sample decoding (pg. 62). Beyond the chart in the decoding document, the line number is used to identify the decode meaning for that line and associated transaction.

3.   The third section reveals the "status codes". The IMF is marked with a line number for each status code. The decoding shows a chart for the status codes with the appropriate line numbers. The chart is followed with a listing of the line numbers and the appropriate meaning for the referenced status codes.

You will be able to place this sample next to your IMF and get an idea of what decoding does and means, and what kind of record the IMF is keeping on you.

For one that has not been filing a return, the IRS will often take it upon itself to file an SFR (substitute for return) for the person, this will sometimes show in the area 12 as shown on the sample IMF. We have already included a sample foia request for the SFR.

Next you will notice a150 posting, this is the transaction code for an assessment. On the sample it is marked as item 11 of the first page and also as line number 102 with a line drawn to the associated DLN number. On the chart for the IMF transaction (see page 61) and the explanation of line 102 (same page below the chart) with information taken directly from IRS manuals with no conjuncture or explanation on the decoders part. This then represents substantive factual information that complies with the Federal Rules of Evidence as opposed to here say evidence which will never hold any weight in federal court.

Under the administrative Equity system when one gets certain types of correspondence from the IRS, the court case has just started whether one knows it or not, and what one does at that point can ultimately determine victory or defeat.

The ultimate goal here is to keep out of the actual courtroom by countering whatever the IRS tries to do with factual substantive paperwork based on the information contained in the administrative record.

In the level 2 seminar we teach how to prepare a basic chart. This chart displays the information taken from the DLN's posted to the IMF for that specific tax period (usually one year) along with the transaction code. For each tax period there will be a separate decoding and separate chart. If the IRS is trying to do mean and nasty things, this decoding will lay out in detail how they have falsified your record. We have developed a system of how to get this information into your record at the IRS, this will be covered in other issues.

On the sample IMF chart (page 61) you will note line number 106 and 108 have 914 transaction codes. Looking at the decoding for those line numbers (page 62 and 63) you will see these codes represent an "Active Criminal Investigation". Both show a blocking number 300. The blocking number is a part of the DLN and represents you as under the US-UK tax treaty. This is an executive treaty not approved by congress. This blocking series says that your are guilty of some kind of tax violation under the US-UK tax treaty and are to be treated in that manner unless you can prove otherwise.

We are trying to show you some basics concerning your IMF without overloading you with more complex details of which there are many.

If you have not been filing a return and the IRS takes it upon itself to do one for you, there would be an SFR posted in area 12. We have already included a sample FOIA request for this document that you can send in if you have an SFR posted to your IMF.

Next to item 12 you will see the 150 posting which we have assigned number 102 because it corresponds with the DLN in item 11. Most IMF's will have this 150 posting associated with a DLN.

In the chart for the IMF transaction codes (see page 61) you will find "line 102" which is information taken directly from IRS manuals with no conjuncture or explanation on our part. This is substantive factual information that complies with the Federal Rules of Evidence as opposed to here say evidence which will never hold any weight in federal court.

Under the administrative Equity system when you get certain types of correspondence from the IRS your court case just started whether you know it or not and what you do at that point can determine victory or defeat.

Our whole goal is to keep you out of the actual courtroom by countering whatever they try to do to you with factual substantive paperwork based on the information contained in the administrative record.

In our level 2 seminar we teach you how to do a basic decoding chart. We do a chart for the DLN's posted to your IMF for that specific tax period. Each year you will have a separate spreadsheet which, if the IRS is trying to do mean or nasty things to you, this will lay out in detail of how they have falsified your file. We have put together a system of how to enter this information back into your record and will cover it in other issues.

Also on page 3 you will see line 106 and 108 have 914 transaction codes, which are criminal investigations, with a 300 blocking code that puts you under the US-UK tax treaty. This is an executive treaty not approved by congress. This 300 blocking code basically says that you are guilty of some kind of tax violation under this US-UK tax treaty and are to be treated in that manner unless you can prove otherwise.

Remember we are trying to give you some basics concerning your IMF without overloading you with more complex details.

· IMF MCC TRANSCRIPT-SPECIFIC ·

EMP NO

01 F753STCL658

ACCOUNT NO
NAME CONT-

08-14-2001
CYCLE-200124

FOR-356001804E BY-356001804E ON-06142001 TYP-S-30-199912 *02*
TIME-08:53 SRC-I   F753STCL658   PROCESSED ON-185
                                        REQUESTED TAX MODULE FOUND ON MF

1991 2

200045   030-753   *04*   20DC-S8 20DCEC- -
                                    PRIOR NAME CONTROL-   SPOUSE SSN *05*   O
LOC-3501   *03*   MFR-04 VAL-1 IRA-   FZ   CAF
YEAR REMOVED-   ENT EXT CYC-200104 FYM-12 SCS- *07* CRINV-Z 130-
                                    RPTR- IPMF- SHELT- BNKRPT-1 BLL
                                    ACCRETION-   MIN SE
                                    JUSTIFICATION-1 IRS EMPL- FED EMPL

1979-22
1983

PTNL

      1999 MF   CND-P FLC-17 200045

· TAX PERIOD 30   199912 ·   REASON CD-   MOD EXT CYC-200
                                                     08
FS-2   CRINV-Z   LIEN- 17221-267-04521-0   CAF- FZ   *09* *09*
TDA COPYS-   TDI COPYS-
      INT TOLERANCE- MATH INCREASE- HISTORICAL DO-35 BWNC-   BWI-
MF MOD BAL-   296.00
ACRUED INTEREST-   0.00 02052001   CSED-11202010 *10*
ACCRUED PENALTY-   0.00 20010205   RSED-08152003
FMS-IA CD-0   ARDI-0   ASED-0920

12   150 11202000   13,227.00 *11* 200045
      102   17221-267-04521-0   CD-   *13* SRC
            RCC-   ERR-   TAX PER T/P-   13,227
RET RCVD DT-09202000
                                                        14
                                            F/C- AGI-   80,963.
                                  FOREIGN-   FARM- ME P-
                                  XRF-   AEIC-   0.0
                                  NAI-   EXMPT-02 NRGY-   0.
                                  LTEX-   TAXABLE INC- 67,233.
                                  PENALTY SUPP-1000   SET-   0.
                                              TOTAL WAGES-   69,555.
                                  MDP-   TOTAL INC TX-   13,227.
                                              EST TAX BASE-   13,227.0
                                              PR YR BASE-   11,482.
                                  SHORT YR CD-   ES FORGIVENESS %-

· · · · CONTINUED ON NEXT PAGE · · · · · · · · · · · · · · · · · ·

•IMF MCC TRANSCRIPT-SPECIFIC•

EMP NO 28-___-_
F7930T-L653

ACCOUNT NO
NAME CONT-   06-14-2001
                                               CYCLE-200124

                                        1ST SE-   0.00   2ND SE-   0.
                                        ACCT TYPE-
                                        EFT-0
                                        F8615- UNAPPLD CR ELECT-   296
                                               ES TAX PAYMENT-   0.
                                        HIGH INCOME-   DIR DEP REJ RSN CD=0
                                               PUTI-   0.00   SUTI-   0.
                                        PMEI-   0.00   SMEI-   0.
                                        PMTI-   0.00   SMTI-   0.

104   806 09202000   10,798.00   200045WTHLDNG TAX CREDIT POSTED WITH RETURN

106   914 12151999   199851 35277-749-30005-8

108   914 09201999   199939 35277-663-30031-9

110   460 08152000   200021 31219-116-02872-0
                                              EXT DATE-08152000

112   670 04152000   2,725.00   200021 31219-116-02872-0
                                              PRC
                                              DESG PAY CD-

202   MF STAT-04 06052000 EXT DT=08152000   200021
204   MF STAT-12 11202000   296.00 200045

IMF DECODING
Interpretation of the first page of the Individual Master File (IMF)
IRS empl 35-600-18046   date 06/14/2001   cycle 01/24 Account ssn-xx-xxxx
Name **Wilbert C. Sample**   IMF Period **30 1999/12**

The consecutive line numbers below are matched by number marked on the IMF.

01   Not a tax protester

02   Tax year 1999 Type S-30 (Specific Master File)

03   MFR 04   IMF 1040 full non-business (Sch. A,B,D,E)

04   VAL-1   SSN is not valid for the taxpayer using it.

05   Crinv -Z   Freeze Code -Z (unreversed TC914 posting)

06   FZ>   -ZVW Freeze codes
                  -Z (unreversed TC914 posting)
                  -V (Bankruptcy indicator {TC520 CC 81,85-89})
                  -W Freeze code -W (IRS litigation has been issued
                     [TC520 closing code 70-89, except CC 71-74,81,82 or   85-
                     89])

07   Crinv -Z   Freeze code -Z (unreversed TC914 posting)

08   Lien   Lien indicated with DLN # 17221-267-04521-0

09   FZ   -ZVW Freeze codes
                  -Z (unreversed TC914 posting)
                  -V (Bankruptcy indicator {TC520 CC 81,85-89})
                  -W Freeze code -W (IRS litigation has been issued
                     [TC520 closing code 70-89, except CC 71-74,81,82 or
                     85-89])

10   CSED   Collection statute expiration date   11/20/2010
      RSED   Refund statute expiration date   08/15/2003
      ASED   Assessment statute expiration date 09/20/2003

11   Assessment 11/20/2000 DLN# 17221-267-04521-0

12   SFR   None shown

13   tot Inc tax   13,227.00

14   AGI   Adjusted gross income 80,963.00

Transaction codes consist of three digits and are used to identify a transaction being processed and to maintain a history of actions posted to a taxpayers account on the master file. Every transaction processed by ADP must have a Transaction code to maintain Accounting Controls of debits and credits, to cause the computer at the MCC to post the transaction on the Master File, to permit compilation of reports, and identify the transaction when a transcript is extracted from the Master File. IRAF; Many BMF and IMF Transaction Codes will not be used for the IRAF. Also, the definitions of several Transaction Codes are necessarily changed since there will be no offsetting or computer generated credit interest. In addition all refunds will be scheduled manually with the refunds posted to the IRAF using transaction code 840.

In this decoding document there will often appear the words debit or credit. This is determinate for that particular code.
There will often appear the initials "I", "B", "A", "E". These initials indicate to what kind of filer does the particular code apply.

Next there will often appear short title wording describing the code action.

Where you see "gen" in place of numbers indicates no forms or documents are generated for that transaction code, but the code will act as a possible key for other actions in the computer. The manual simply states "Computer Generated".

The final item in the line is ADP 8-#. This is the page number of the source of the information in the "ADP and IRS Information" (Internal Revenue Service Document 6209).

On the chart, the column third from last will appear a two digit number, this number is the document code. The document code indicates what IRS forms are triggered by the code and/or are generated. The document code on the decoding report (doc) is shown as the document number, and will also list the forms (by form number) connected to that particular number. This list is taken from "IRS Law Enforcement Manual III 3(27)(68)4.3. Attached to the decode report is an excerpted list of the forms in order (part of the above manual) showing title and area of each form. In the next to last column is a three digit number (blocking number) that is also found in the "IRS Law Enforcement Manual 3(27)(68)4.4". This number further defines the action of the particular transaction.

The Chart for the IMF transaction codes and Blocking numbers.
Line numbers have been added to your IMF to correlate to this chart.

line	code	debit	credit	eff-date	cycle-dt	julian-dt	doc	block	series
102	150	13277.00		11/20/2000	00/45	267	21	045	21
104	806		10798.00	09/20/2000	00/45				
106	914			12/15/1998	98/51	749/349	77	300	05
108	914			09/20/1999	99/39	663/263	77	300	31
110	460			04/15/2000	00/21	116	19	028	72
112	670		2725.00	04/15/2000	00/21	116	19	028	72

Line 102
Transaction Code 150   debit   I/B .return filed and   ADP 8-11
                                Tax liability assessed.
                                                IMF: 05,06,07,08,10
                                                11,12,22,26,27,51,72,73,
                                                BMF: 05,06,08,09,10,11,
                                                13,35,3616,20,23,29,35,36,
                                                40-44,46,51,59,60,65,66
                                                (PSC only) 67, 71,81,83,
                                                90-93,95
                                                (EPMF) 30,31,37,38
                                                (IRAF) 11,12,21,21,22,51,
                                                73 (PMF) 69

A tax liability assessed from the original return establishes a tax
module. *BMF: Assessment may be Credit for Form CT-1. 720 and 941. See
TC 976-977 for amended return.

Transaction Code 150 I/A   Entity created by   gen   ADP 8-11
                                TC 150
This TC 150 when posted to the Entity Transaction Section indicates the
Master File Entity was created from the posting of the return.
            Document number 21   1040,W-2,5329

            Blocking number 045
                IRA 000-099 All adjustments except those
                specified below. Non-refile DLN.
                MF 000-049   Adjustments with original
                return unless specified otherwise below.
                BMF 000-049 Adjustments with the original
                return attached, except those with math/
                clerical error adjustments, SC Technical
                adjustments, Offers in Compromise, Not
                valid for Forms 11C,706,709,730.

Line 104

Transaction code 806 credit IB   credit for   gen or 54   ADP 8-47
                                     Withheld taxes and
                                     Excess FICA

Credits the tax module for the amount of withholding taxes and excess FICA claimed on a Form 1040 or 1041 (8712 & later) return. May also be generated by appropriate line adjustment on an Examination or DP Tax Adjustment.

> No document number shown
> No blocking number shown

Line 106

Transaction Code 914 IBA   Active Criminal   77 ADP 8-52
                                   Investigation

Identifies a tax module assigned to the Criminal Investigation Division. Establishes modular freeze which causes all transactions except the following to be unpostable: IMF only Corr. UPC 183; IMF/BMF TC 428, 910, 912, 920 and 99X; BMF only Corr. UPC 333. TC 019, 424 (SPC 049), IRAF Corrected Unpostable Code 733. BMF/IMF: Prevents entity or tax modules from being removed from the MF as an expired account.

> Document number 77   3870,4356A,4356SP,2688,843,
>   2758,2350,900,4868,I127,3177,
>   3177A,3177B,2749,4907,
>   5147,4768,5558,5768,5308,
>   5466B
>
> Blocking number 300
>   IMF 300-309 Barred assessment. CP 55
>   generated. Valid for MFT 30 and 29.
>   BMF 300-309 Barred assessment. CP 155
>   generated.

Line 108

Transaction Code 914 IBA   Active Criminal   77   ADP 8-52
                                 Investigation

Identifies a tax module assigned to the Criminal Investigation Division.
Establishes modular freeze which causes all transactions except the
following to be unpostable: IMF only Corr. UPC 183; IMF/BMF TC 428, 910,
912, 920 and 99X; BMF only Corr. UPC 333. TC 019, 424 (SPC 049), IRAF
Corrected Unpostable Code 733. BMF/IMF: Prevents entity or tax modules
from being removed from the MF as an expired account.

Document number 77   3870,4356A,4356SP,2688,843,
                      2758,2350,900,4868,I127,3177,
                      3177A,3177B,2749,4907,
                      5147,4768,5558,5768,5308,
                      5466B

Blocking number 300
       IMF 300-309 Barred assessment. CP 55
       generated. Valid for MFT 30 and 29.
       BMF 300-309 Barred assessment. CP 155
       generated.

Line 110

Transaction code 460 IB   Extension of   all:77   ADP 8-25
                           time for filing   IB:gen
                                                     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 dale 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

Document number 19   APSII processed forms

Blocking number 028
        IRA 000-099 All adjustments except those specified below. Non-refile DLN.
        MF 000-049   Adjustments with original return unless specified otherwise below.
        BMF 000-049 Adjustments with the original return attached, except those with math/clerical error adjustments, SC Technical adjustments, Offers in Compromise, Not valid for Forms 11C,706,709,730.

Line 112

Transaction code 670 credit IBA Subsequent   all:17,18,   ADP 8-39
                                              payment   19,24,58,
                                                             IB 34

If return has posted, credits the Tax Module with payment on account.
If return has not posted, credits the Tax Module with prepayment on
account. See UPC 198, and UPC 305. May carry a Designated Payment Code
(DPC) (See section 11.11) Processing of TC 670 with secondary TC 460
use doc code 19.

     Document number 19   APSII processed forms

     Blocking number 028
        IRA 000-099 All adjustments except those
        specified below. Non-refile DLN.
        MF 000-049   Adjustments with original
        return unless specified otherwise below.
        BMF 000-049 Adjustments with the original
        return attached, except those with math/
        clerical error adjustments, SC Technical
        adjustments, Offers in Compromise, Not
        valid for Forms 11C,706,709,730.

MF and IDRS Collection Status Codes   ADP 8-57

The Master File codes are MCC computer generated as a result of the computer analysis after a transaction has posted to the Master File. The Status Code designates the current collection status at the module and will appear on the MCC transcripts and on IDRS. The ten-digit abbreviations appear on the MCC transcripts only. IDRS Status Codes which are unique to IDRS or vary in meaning from similar MF status codes are identified by *. (Reference LEM Internal Revenue Manual 3(27){68)O)

line	code	debit	credit	eff-date	cycle-dt	notice
202	04			06/05/2000	00/21	
204	12		296.00	11/20/2000	00/45	

Line 202

04   IBA   EXT FILING   ADP 8-57
Extension of time tar filing granted. (Date of status Is extension application filing date.) Installment basis, when applicable, to Forms 990Ct, 990Tt and 1120t.

Line 204

12   IBA   R OP OR PD   ADP 8-58
Return is filed or assessed or if MFT 13, TC 240 posted, overpaid or subsequently collected.

*12   N   ADP 8-58
Full Paid-generated in response to Command Code STAUP or when TC 291 appends to a module in IDRS Status 89 and the IDRS module balance Is less than $5.00.

MFR

At the bottom of page 10 which is extracted from Law Enforcement Manual III. We find filing requirement codes (FRC); Mailing filing requirements. These codes are posted to the BMF, IMF, EPMF, and IRAF and are located on the first page about 1/3 of the way down in the center of the page. In our sample IMF the MFR code is a 04 which on page 11 at the bottom we find 04 means 1040 full non-business (Sch. a, b, d, e,) which these forms are to be attached to the 1040. When you receive your IMF or BMF back from the IRS you can now look up this code for yourself.

3(27)(68)2.3 (1-1-80)
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 (1-1-80)
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 (1-1-80)
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	5227 (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

VAL-1

You will find these Validity codes at the bottom of page 9 of the Law Enforcement Manual III and as you will see there is little information to be found. This page 9 exhibit is found on the next page. Even though there is scant information to be found in this area the ramification go very deep and become very secretive.

We will have a VIP Dispatch issue concerning the social security act so we can explore this issue in greater depth and detail.

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 Txxxxxxxxx.

(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.

Freeze Codes

Those of you who find freeze codes posted to your IMF will not find them listed in the IMF operations manual but you will find them inside the BMF operations manual, the ADP 6209 manual and Law Enforcement Manual III. February 2002 BMF issue will cover these freeze codes but we wanted to give you a couple examples.

Table of BMF Processing Freezes

Code (Accounts Register)	Freeze	Explanation
R-	RPS—Multiple 610	INITIATED BY: 1) RPS 150 posts creating a credit balance in the module and the module already contains more than one TC 610 that are either unreversed or, if reversed, are RPS 610s matching the RPS 150 and reversed by TC 611; or, 2) TC 610 posts to a module containing a TC 150 (either the TC 610 or 150 is an RPS transaction), the input TC 610 causes a credit balance in the module, and more than one TC 610 is already posted that has not been reversed by TC 612, or there are no TC 610's already in the module and the input TC 610 does not match on DLN with posted TC 150; or, 3) a non-RPS 150 posts creating a credit balance in the module and more than one RPS 610 is already posted that has not been reversed by a TC 612.
		ACTION: Module is frozen from offset-out and refunding.
		RELEASED BY: a TC 29X with other than priority code 6, or 7, or 30X posts; or the module goes to zero or debit balance; or TC 612 reversing all TC 610 not matching on return DLN posts, or duplicate return (TC 976) posts.
-S	Reserved	
S-	Undelivered Refund Deposited	INITIATED BY: TC 740 posting.
		ACTION: Module is frozen from refund. CP 231 is issued.
		RELEASED BY: TC 018, TC 014 (address change) or 742 posting which reverses all TC 740 credits; or when module balance becomes zero or debit.
-T	Entity Hold	INITIATED BY: TC 910 posting.
		ACTION: Prevents any tax module from being removed from the Master File. INTEL-910 transcript issued in the cycle TC 910 posts.
		RELEASED BY: TC 911 posting.
-U	Erroneous Refund	INITIATED BY: TC 844 posting.
		ACTION: Entire account is frozen from refund and individual module(s) to which TC 844 is posted is frozen from offset. "TRANS-844" transcript is issued in cycle subsequent credits post or cycle a credit becomes available for refund.
		RELEASED BY: Individual module freeze is released by TC 845 posting. Entire account freeze is released when all TC 844's have been reversed.

Criminal Code Postings

Many IMF's that are sent to us contain net only the freeze codes but also Criminal codes. One of the books that we have on our list which is number 12 "Criminal Investigation at the Service Center" is a good place to start for locating information on this area. We also have a number of other IRS publications on our list dealing with Criminal Investigations.

We have enclosed a couple pages out of item 12 so you will have some basic background concerning these criminal transaction codes. Under the FOIA section number 9 us a sample FOIA request you can send in if you have one of these Criminal postings on your IMF or BMF.

e. When possible, personally meet with referring office to explain declinations.

1.3.1.4 (04/14/98)
Restitution
Program

(1) See chapter 4 of this Handbook for information concerning the court ordered restitution program.

1.3.1.5 (04/14/98)
Controlling
Taxpayer
Accounts under
Criminal
Investigation

(1) The Chief, CIB, is responsible for the quality and timely input of CI Transaction freeze codes per existing guidelines.

(2) CI freeze codes are inputted by the CIB Control Function and consist of the following Transaction Codes (TC):

a. TC 910
b. TC 911
c. TC 912
d. TC 914
e. TC 915
f. TC 916
g. TC 917
h. TC 918
i. TC 919

(3) These codes are discussed individually in another Chapter of this Handbook.

1.3.1.6 (04/14/98)
Work Planning
and Control
Tracking System

(1) The Chief, CIB, is responsible for tracking time of CIB personnel.

(2) Time worked on CIB programs is tracked on the Service Center Work Planning and Control (WP&C) reporting system.

1.3.1.7 (04/14/98)
Fraud Awareness

(1) The Chief, CIB, is responsible for the training of service center functional personnel in the recognition and referral of potentially fraudulent returns or other documents.

(2) The volume of in-house referrals varies between centers. The principal reason for this variance is the quality of the fraud awareness training; timeliness; encouragement; and interest by management. It is the Chief's CIB responsibility to secure a commitment from the service center management to allow fraud awareness presentations during training sessions or as deemed appropriate.

1.3.1.8 (04/14/98)
Referrals from Service Center Employees

(1) CIB will receive in-house referrals from various functions within the service center on a continuing basis to evaluate for criminal potential. The referrals will primarily be from Document Perfection Branch, Examination Branch, Adjustment Branch, Underreporter Branch and Customer Service Branch.

(2) Cases may be referred via Form 2797, Referral Report of Potential Criminal Fraud Cases, or per their respective handbook instructions; however, some cases are referred based on fraud awareness training given to their tax examiners.

1.3.1.9 (04/14/98)
Refund Inquiries

(1) Refund Inquiries will be received from various functions throughout the service center. Guidelines issued by Headquarters in April, 1994 are to be followed.

1.4 (04/14/98)
CIB TRAINING

(1) The following sections provide information concerning the training of CIB employees

1.4.1 (04/14/98)
Training Requirements For The Chief, CIB

(1) Reserved

1.4.2 (04/14/98)
Training Requirements For CIB Employees

(1) Reserved

1.4.3 (04/14/98)
Questionable Refund Program (QRP) Fraud Awareness Training At Service Center

(1) The Chief, CIB, is responsible for training and orientation of service center functional personnel in the recognition and referral of potentially fraudulent returns.

(2) The Chief, CIB, will secure a commitment from the service center management to allow fraud awareness presentations during functional training sessions or other group meetings conducive to fraud awareness training.

(3) Whenever possible, the Chief, CIB, should be personally involved in the training to ensure timeliness, quality, and a high management level of interest in the fraud referral program.

(4) The Chief, CIB, will maintain documentation on all fraud awareness training.

DLN

We have already gone into Document locator Numbers and on the next two pages extracted from the 1997 6209 manual section 4.

On your IMF and BMF you will find a number of these DLN's. These DLN's refer to a certain document or it can be a file containing hundreds or even thousands of pages that the IRS has been keeping on you without your knowledge.

When we decode your IMF or BMF we always do a separate FOIA request for each DLN posted to your file. This is a very important process in decoding the IMF, BMF, which for some reason few of those people out promoting their decoding process hardly even touch these DLN's. When you send for these DLN's you never know what you are going to receive back from the IRS if anything. Many times you will hit solid pay dirt and receive documents that were never supposed to be exposed which documents your files have been tampered with or in other words down right falsified. In later VIP Dispatches we will be covering the importance of DLN's.

Section 4. Document Locator Number

1 DLN Composition

(1) The document locator number (DLN) is a controlled number assigned to every return or document input through the ADP system. The fourteenth (last) digit is the year of processing and is assigned by the Service Center computer at the time of the original input.

(2) The DLN is used to control, identify, and locate documents processed in the ADP system.

(3) The DLN should not be confused with the tax account number the tax account consists of nine digits, for example:

Social Security Number XXX-XX-XXXX (IMF, IRAF)
Employer Identification Number XX-XXXXXXX (BMF, EPMF)

Note: A temporary SSN is sometimes assigned by the Service Center. The first three digits (900-999) indicate the number is temporary. The 4th and 5th digits are the code of the Service Center assigning the number. The last four digits are numbers assigned consecutively beginning with 0001. The printed format is TXXXXXXXXX* (The *T* Indicates a temporary SSN, and the asterisk (*) indicates the number is invalid.)

(4) Returns and documents are blocked and filed by DLN.

(5) The format for a DLN is as follows:
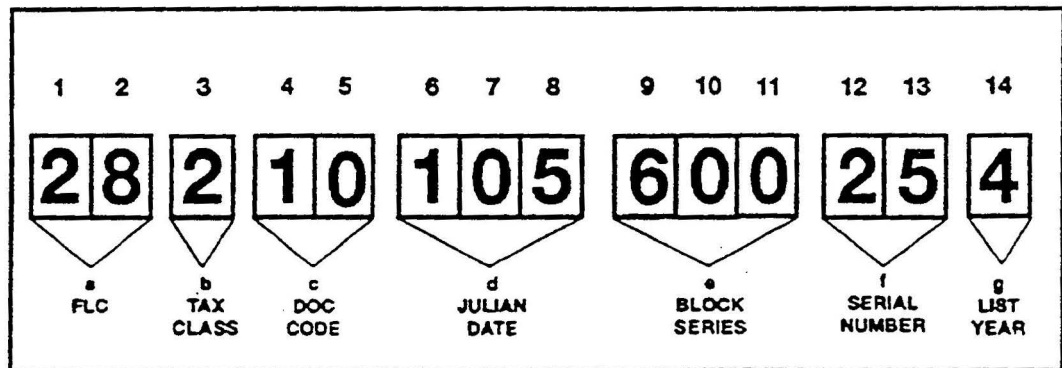
(a) The first two digits of DLN the File Location Code (Service Center or District Office). The Service Center codes are used in the DLN except in IDRS and other district-initiated transaction DLN's, where the District Office codes are used. During heavy filing periods, D.O. Codes will be also used as the Filing Location Code to handle overflow conditions but will not correspond to the actual filing location.

(b) The third digit is the tax class. This identifies the type of tax each transaction involves.

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 (400-766).

(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.

The TC 150 Section
Part 1

In this section we have included just a few items on the TC 150 code to which we will keep adding to in other issues as we work it out with the history of its development.

We have already included a basic FOIA request for the TC 150 with exhibit pages. We've developed many arguments for you to use and this issue is just one of those to be used in conjunction with other arguments and not just a stand-alone issue.

(15) OIC (TC 480)
(16) NMFL (TC 480)
(17) KITA (TC 01X)
(18) COMBAT ZON
(19) UNREVTC 520 (TC 520)
(20) TDI RESRCH (See Project 720)
(21) INTEL (See Project 735)
(22) REACT .. MF (TC 130)
(23) CSED
(24) MARRIED FILED SEPARATELY (TC 424)
(25) MULTIPLE FILER (TC 424)
(26) Cr El Deco (See Project 439)
(27) TRFPENACT
(28) VIRGIN IS (TC 150)
(29) STAT TRANSCRIPT
(30) QUEST W-4 (See Project 411)
(31) FOLLOW-UP W-4 (See Project 411)
(32) AMRH (See Project 712)
(33) AM-X (See Project 712)
(34) CV PN CRED
(35) SC ADDRESS
(36) Hostage
(37) NRPS
(38) DECDESCR
(39) STIM
(40) UNP 71 REL
(41) RSED
(42) A/R Clean-Up (See Project 713)

3(15)(129)9.(11)

Adjustment to Virgin Island Forms 1040 and 1040A

(1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.

(2) Action:

(a) Check TC 150 DLN for blocking series 98 (Virgin Island);

(b) Write "Virgin Island TP" on the transmittal; and

(c) Send 86C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12)

Underreporter/CP2000 Issues

(1) The Underreporter Program (URP) is the compliance program. which compares amounts of wages, interest, dividends, etc., reported by the payers with the amounts reported by the individual taxpayers. Discrepancies in income and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current link year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000s or Statutory Notices from URP, A/C will receive correspondence and/or Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URP.

(2) Route Forms 1040X (that relate or refer to URP) for the current URP processing year to URP. Follow regular adjustments procedures for:

(a) other than current URP processing year Forms 1040X and.

Person to Contact:
Barry Windheim
Telephone Number:
(202) 622-6250
Refer Reply to:
97-976
Date: MAY 1 1997

Dear Mr. ████:

    This is in response to your Freedom of Information Act
(FOIA) request dated April 9, 1997, concerning Transaction
Code 150.

    In response to number 5 of your request, we are not
required under the FOIA to conduct extensive research.
Concerning the scope of Transaction Code 150 (number 6 of
your request), our Disclosure Officer in the Assistant
Commissioner (International) has advised us that the
transaction codes contained in our manuals are used to
identify a transaction being processed and to maintain a
history of actions posted to a taxpayer's account on the
master file. The Transaction Code 150 indicates a tax
liability assessed when a tax return is filed and a return
is posted to the Master File. The Virgin Islands (150)
relates to the tax liability assessed on a U.S. Self-
Employment Tax Return-Virgin Islands, Guam, American Samoa.
It indicates the amount of self-employment tax assessed on
this type of return.

                              Sincerely,

                              Barry Windheim
                              Program Analyst
                              Freedom of Information

1   IN THE UNITED STATES DISTRICT COURT

2   FOR THE DISTRICT OF MARYLAND

3

4 United States of America

5   vs.

6 Fred W. Allnutt, Sr.   Criminal No. L-95-0295

7 and

8 Christopher Allnutt

9

10

11

12   Baltimore, Maryland

13   March 12, 1996

14

15 BEFORE: His Honor, Herbert N. Maletz, and a jury.

16   EXCERPT FROM TRANSCRIPT OF PROCEEDINGS

17   TESTIMONY OF MARTIN MALARKEY

18   APPEARANCES

19 For the U.S.A.:

20   Ethan L. Bauman

21   and

22   Dale Kelberman

23

24

25

1   THE COURT: Just a moment. I want you to summarize

2 what the documents are.

3   THE WITNESS: Those documents show --

4   THE COURT: Never mind what they show. What are

5 they?

6   THE WITNESS: Those documents are the summations of

7 your tax account for the year requested for the social

8 security number requested.

9   THE COURT: Very well.

10 Q   Now a tax module is established when a tax payer files

11 the tax return, isn't that correct?

12 A   That is one of the ways it will be established, yes,

13 sir.

14 Q   If no tax return is filed there is no tax module, is

15 that correct?

16 A   No, sir.

17 Q   Don't you have to fool the computer and input a

18 transaction code 150 to trick the computer into believing a

19 tax module was opened?

20 A   Well, the service --

21   MR. KELBERMAN: Your Honor, I am going to have to

22 object at this point. This is a matter for cross examination.

23 We are on the subject of direct and whether or not the witness

24 can testify regarding a search of records.

25   THE COURT: The objection will be overruled.

1   MR. DICKSTEIN: Thank you.

2   THE WITNESS: Repeat the question, please.

3 Q   Isn't it true that someone at the service center has to

4 input a transaction code 150 to trick the computer into

5 opening up a tax module?

6 A   That is correct.

7 Q   And that is what happened here, isn't it?

8 A   I am not sure if tricked is the right word but, a 150

9 code is established.

10 Q   And that 150 code stands for a tax return filing?

11 A   No. It stands for a tax liability. 150 is tax

12 liability.

13 Q   Sir, are you familiar with the 6209 manual?

14 A   Not by number, no.

15 Q   That is the manual, the IDRS manual?

16 A   Oh, yes.

17 Q   And the documents kept in the computer are all in code,

18 aren't they?

19 A   Yes, they are.

20 Q   And the IDRS manual is used to decode the document,

21 isn't correct?

22 A   That is correct.

23 Q   Sir, let me hand you a IDRS manual and refer to you

24 Section 8-9 for transaction code 150, would you please read to

25 the jury what transaction code 150 on stands for?

```
1    A      TC 150 with doc code 51 may indicate  --

2    Q      I am sorry.  Read this part here, under here?

3    A      Return filed and tax liability assessed.

4    Q      Does that change your testimony as to what TC 150 stands

5    for?

6    A      I thought you said the date.  TC 150 does not establish

7    the date it was filed.

8    Q      No, but it stands for the proposition that a tax return

9    was filed and a liability was assessed?

10   A      That is correct.

11   Q      So we have a 150 transaction code that indicates the tax

12   return was filed?

13   A      Yes, sir.

14   Q      Except in this case you are testifying that no tax

15   returns were filed?

16   A      Mr. Allnutt did not file a tax return.

17   Q      Right, the I.R.S. made up what is called a dummy return,

18   didn't they?

19   A      Substitute for return, yes.

20   Q      And they put zeros on it, right?

21   A      Yes, sir.

22   Q      So you tricked the computer, was that a correct return

23   by the way?

24   A      The dummy return, the substitute return?

25   Q      Yes, with zeros on it?
```

1   A   The actual face of the return, no, it was not.

2   Q   It is an inaccurate return that the I.R.S. files, is

3   that correct?

4   MR. KELBERMAN: May he complete his answer?

5   A   The document substitute for return is accompanied by a

6   detailed tax calculation so that we will know how much tax to

7   assess.

8   Q   It is something that you created in order to have the

9   computer open up the tax module, is that correct?

10   A   Something that the service created.

11   Q   So it doesn't have the, the truth is this doesn't

12   reflect anything about the taxpayer other than what you put

13   into it?

14   A   I can't agree to that, no. I would disagree with that.

15   Q   Did you not receive a complete individual master file?

16   A   I did not.

17   Q   Who did?

18   A   I don't know.

19   Q   But, in fact, this information was taken off of the

20   complete master file, right?

21   A   It was taken off the IDRS system.

22   Q   Right, from the individual master file?

23   A   Right.

24   Q   And this is an analysis of some of the things on the

25   master file, is that right?

1   A   Yes.

2   Q   So if we wanted the complete record we would need the

3   complete master file, is that correct?

4   A   It would show more information.

5   MR. DICKSTEIN: We still haves a lack of foundation,

6   Your Honor. We also have documents that have been fabricated.

7   THE COURT: That have been what?

8   MR. DICKSTEIN: They have been fabricated.

9   THE COURT: I understand. You don't need to go any

10   further. Do you have any further questions on voir dire?

11   MR. DICKSTEIN: No, I don't.

12   MISS MURDOCK: May I have a moment to look at the

13   document?

14   THE COURT: Yes.

15   MISS MURDOCK: Thank you.

16   (There was a pause in the proceedings.)

17   MISS MURDOCK: I have no questions.

18   THE COURT: You may proceed and complete the voir

19   dire, if you would like.

20   REDIRECT EXAMINATION ON VOIR DIRE

21   BY MR. KELBERMAN:

22   Q   Mr. Malarkey, based on the review of the document --

23   THE COURT: I am going to ask you again, I am not

24   clear as to what document you have before you, don't

25   summarize.

Two Idiot legal arguments that did not work

The first one concerns not opening IRS mail. This is another argument that just keeps going around the country in all types of various forms. Many will tell you to just write on their letter "this is not me" or stamp, "refused for fraud" on it and send it back to the IRS. We've known people to take down their mailbox so no mail can be delivered there. We have been told how well this works until we get a call from someone doing this who tells us that there are people stopping by to ask if this is the house the IRS is getting ready to auction off.

The next argument concerns the non-resident alien issue, which for some reason keeps going around the country again and again. We could write pages about this argument and how ineffective it is.

Enclosed is just one court case where this argument crashed. You can read this case and make your own judgment. These arguments do not incorporate the FOIA procedure so they have no substantive arguments to use. We would never consider any arguments like the ones we just told you about because they do not incorporate the FOIA procedure.

You will find that most of these people who promote these Idiot Legal arguments have never even done a FOIA request. Anyone, who tells you that don't have to do FOIA request because the argument is so good, doesn't have a clue of what they are doing.

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

JOHN S. WILLIAMSON and NANCY L. WILLIAMSON, Plaintiffs-Appellants, v. UNITED STATES OF AMERICA, Defendant-Appellee.	No. 99-2294 (D.C. No. CIV-96-1082-M) (D. N.M.) (84 F. Supp. 2d 1217)

ORDER AND JUDGMENT[*]

Before **KELLY**, **McKAY**, and **HENRY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Plaintiffs John S. Williamson and Nancy L. Williamson, representing themselves, appeal from an order of the district court that dismissed their action brought against the government under 28 U.S.C. § 2410 seeking to quiet title to property, to invalidate tax liens and levies made against them, to enjoin future collection efforts by the Internal Revenue Service (IRS), and to collect money damages for unlawful disclosure of their confidential tax return information. We have jurisdiction under 28 U.S.C. § 1291.

Plaintiffs argue on appeal that: (1) the district court ignored irregularities in the procedures used by the IRS, including lack of proper notice of assessment and demand for payment; (2) the IRS filed "dummy" 1040 forms for them and then illegally seized $45,397.96 from Mrs. Williamson based on these "dummy" forms; (3) the IRS made assessments of $0.00 and, thus, there is no tax deficiency to be paid; (4) Title 26 United States Code is a private law that does not apply to plaintiffs; (5) New Mexico is not a state as defined in Title 26 and the IRS therefore has no jurisdiction in New Mexico; (6) there is no contract requiring plaintiffs to comply with Title 26; (7) the IRS has no legal authority; (8) there is no such thing as a type of tax 1040; (9) the district court demonstrated bias against plaintiffs by calling them taxpayers and tax protesters; (10) the district court said it would fine the government for improper conduct but did not do so; and (11) the district court admitted inadmissible documentary evidence and perjurious expert testimony. The government argues in opposition that the district court did not clearly err by finding that the IRS complied with procedural prerequisites to assessing and collecting plaintiffs' tax liabilities or by dismissing their claims, and asks this court to impose sanctions of $4,000 against

plaintiffs for filing a frivolous tax appeal. Plaintiffs have responded to the motion for sanctions.

The district court found that, for every year plaintiffs challenged, the IRS's uncontroverted evidence showed that notices related to its collection efforts either were not required or were sent, and that plaintiffs' practice of refusing and returning mail from the IRS showed that notices actually reached them. See Williamson v. United States, 84 F. Supp. 2d 1217, 1221-22 (D. N.M. 1999). The court concluded that plaintiffs' case amounted to "nothing but their own insistence that [the IRS] has not complied with statutory and regulatory requirements." Id. at 1222. The court further concluded that the levies against Mrs. Williamson's salary and the Williamsons' real property were valid. See id. at 1224-25. Finally, the court held that disclosure of plaintiffs' tax information was in connection with these valid levies and was therefore authorized by 26 U.S.C. § 6103(k)(6). See Williamson, 84 F. Supp. 2d at 1225-26.

This court reviews the district court's factual findings for clear error and its legal conclusions de novo. See Anderson v. Commissioner, 62 F.3d 1266, 1270 (10th Cir. 1995). We have reviewed the district court's decision in light of the parties' materials, and find no error. Indeed, this court has repeatedly rejected most of plaintiffs' arguments as frivolous. See Lonsdale v. United States, 919 F.2d 1440, 1447-48 (10th Cir. 1990).

In any event, plaintiffs have made no reasoned attempt to demonstrate that the district court erred, and their appeal is frivolous. Their response to the motion for sanctions consists of more frivolous arguments: they are citizens of the sovereign state of New Mexico, they are not taxpayers, the Tax Court is a kangaroo court, etc. This court has previously adopted a flat rate sanction of $1,500 for a frivolous tax appeal. Cf. Casper v. Commissioner, 805 F.2d 902, 906 (10th Cir. 1986) ("We now choose to adopt a rule awarding a flat fee of $1,500 as a sanction for a frivolous appeal from a Tax Court decision."). Accordingly, we impose sanctions of $1,500 against plaintiffs.

The judgment of the United States District Court for the District of New Mexico is AFFIRMED, the government's motion for sanctions is granted in the amount of $1,500, and the mandate shall issue forthwith.

Entered for the Court

Monroe G. McKay

Circuit Judge

FOOTNOTES
Click footnote number to return to corresponding location in the text.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

RECOMMENDED FOR FULL-TEXT PUBLICATION

Pursuant to Sixth Circuit Rule 206

ELECTRONIC CITATION: 1999 FED App. 0157P (6th Cir.)

File Name: 99a0157p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

United States of America,

Plaintiff-Appellee,

v.

Edward M. Nash,

Defendant-Appellant.

>

No. 97-1601

Appeal from the United States District Court

for the Eastern District of Michigan at Bay City.

No. 96-20035--Robert H. Cleland. District Judge.

Submitted: January 25, 1999

Decided and Filed: April 28, 1999

Before: RYAN and GILMAN. Circuit Judges: SARGUS. District Judge.

COUNSEL

ON BRIEF: George C. Bush, Saginaw. Michigan. for Appellant. James A. Brunson. OFFICE OF THE

U.S. ATTORNEY, Bay City, Michigan, for Appellee.

OPINION

RONALD LEE GILMAN, Circuit Judge. Edward M. Nash was convicted for the willful failure to file income tax returns for 1991 and 1992, and for the presentation of false, fictitious, or fraudulent tax-refund claims for 1989-1991. He appeals, claiming that (1) the evidence was insufficient to support his conviction for the presentation of false, fictitious, or fraudulent claims for tax refunds, (2) the district court improperly denied the submission of certain exhibits to the jury, (3) the district court improperly instructed the jury, and (4) the district court erred in its application of sentence enhancements for obstruction of justice and for causing a tax loss of greater than $120,000. For the reasons set forth below, we **AFFIRM** Nash's conviction and sentence enhancements.

I. BACKGROUND

Prior to 1994, Nash was a chiropractor in Skidway Lake, Michigan. After attending various lectures and studying the tax laws, Nash claims to have concluded in good faith that he was not within the jurisdiction of the federal government and that the income tax laws did not apply to him. Specifically he testified that because he was a citizen of the "Republic of Michigan," but not a general citizen of the United States, he was properly classified as a nonresident alien. Given his purported nonresident alien status, Nash concluded that he was not obligated to pay federal income taxes, and that he was owed a refund of the monies that he had mistakenly paid in the past.

In 1996, a grand jury returned a five-count indictment against Nash. Counts 1 and 2 charged Nash with the willful failure to file income tax returns for 1991 and 1992, a violation of 26 U.S.C. § 7203. Nash conceded that he did not file these returns. Counts 3, 4, and 5 charged Nash with the presentation of false, fictitious, or fraudulent claims for tax refunds, a violation of 18 U.S.C. § 287 (Supp. 1998). These claims were filed in 1993, seeking refunds for taxes paid during 1989-1991.

At trial, the government presented the testimony of Gregory Holdeman, an analyst in the criminal investigation division of the Internal Revenue Service ("IRS"). Holdeman stated that in 1993 his office received Nonresident Alien Income Tax Returns filed by Nash for the years 1989-1991. Nash signed each form "with all rights reserved, without prejudice," and relabeled each as a "Revocation of Election/Claim for Refund." Holdeman testified that these returns did not constitute processable claims for refunds for three reasons: (1) the only address provided by Nash was "Michigan Republic, America," (2) the absence of Nash's taxpayer identification number, and (3) the inclusion of Nash's reservation of rights statement. The returns were forwarded to revenue agent Annette Teneyuque for additional processing.

Teneyuque worked as an auditor in the civil division of the IRS. According to her testimony, any form requesting a tax refund, no matter how informal, "has to be considered as a claim." Teneyuque also testified that Nash did not file returns for 1991 and 1992. She thus wrote two letters to Nash, one relating to his non-filing of returns, and the other relating to his refund claims. The latter correspondence, which was sent on November 10, 1993, sought to arrange a meeting between Teneyuque and Nash on November 24, 1993 to further discuss these matters. Nash failed to appear at this meeting. Teneyuque then served a summons on Nash's CPA, Bernard Bak, for his records regarding

Nash. After reviewing the information supplied by Bak. Teneyuque referred the case for criminal investigation.

Following the government's case in chief. Nash moved for a judgment of acquittal pursuant to Rule 29 of the Federal Rules of Criminal Procedure. He argued that Counts 3. 4. and 5 should not be submitted to the jury because the proof. when viewed in the light most favorable to the government. would not allow a rational trier of fact to find that the essential element of materiality had been established beyond a reasonable doubt. Specifically, he argued that the refund claims were immaterial because they would not have been taken seriously by the IRS. and were thus incapable of influencing its decisions. The district court denied the motion.

In his defense, Nash introduced various letters that he wrote to the IRS during 1992 and 1993. stating that he had studied the law and believed that he was not within the jurisdiction of the federal government. One such letter was received by Teneyuque on November 23, 1993. Nash concluded the letter by stating: "With all of the information and court cases that have already decided this issue in my favor, I am curious to find out why you still insist that I am a 'person made liable' in . . . the IRS Code. May I please receive a logical explanation?" Teneyuque declined to respond to this letter.

Nash also sought to introduce eight exhibits that he argued supported his good faith defense. These exhibits were marked Exhibits 501 through 508. The district court admitted four of the exhibits into evidence (Exhibits 501, 504, 505, and 506), but did not allow the submission of the remaining four (Exhibits 502, 503, 507, and 508) on the ground that their probative value was substantially outweighed by the danger of confusion under Rule 403 of the Federal Rules of Evidence. Nash. however. was permitted to briefly mention and quote from the four excluded documents during his testimony in order to show the basis for his good faith belief that the income tax laws did not apply to him.

At the end of Nash's defense, the district court charged the jury that good faith. although a defense to Counts 1 and 2, is not a defense to the presentation of false, fictitious, or fraudulent claims for tax refunds as charged in Counts 3, 4, and 5. The jurors were instructed to ignore any evidence regarding good faith in deciding Nash's guilt or innocence on these counts. Nash objected to this jury instruction. but was overruled. Ultimately, the jury returned guilty verdicts on all counts.

At sentencing, the government argued that Nash committed perjury when he testified that his failure to file income tax returns for 1991 and 1992 resulted from a good faith belief that he was not subject to the income tax laws. It sought a two-level increase in Nash's base offense level for obstruction of justice pursuant to § 3C1.1 of the United States Sentencing Guidelines ("USSG"). The district court found that Nash had committed perjury, citing specific portions of the evidence to support this enhancement. Nash's sentence was therefore increased two levels for obstruction of justice.

The government also sought an additional two-level enhancement pursuant to USSG § 2T4.1(J) for a tax loss greater than $120.000. A tax loss of this amount requires an offense level of 15. Three experts testified at trial as to Nash's tax liability for 1991 and 1992. Teneyuque also computed Nash's liability for 1993. Given these figures, the government determined that Nash's total tax liability was $127.643. In response, Nash argued that the calculations of his tax liability for 1991 and 1992 as provided by the two government witnesses varied by 25-40%. and that Nash's 1993 tax liability therefore should have been discounted by comparable percentages. This would have placed Nash's liability in the $70.000-$120.000 range (Offense Level 14). The district court rejected this argument. adopted the government's calculation of Nash's tax liability at $127,643, and enhanced Nash's sentence accordingly. This appeal followed.

II. ANALYSIS

A. Motion for judgment of acquittal

We review a district court's denial of a motion for judgment of acquittal under a *de novo* standard of review. *See United States v. Canan*. 48 F.3d 954, 962 (6th Cir. 1995) ("Although we review the district court's denial of the motion *de novo*. we must affirm its decision if the evidence. viewed in the light most favorable to the government. would allow a rational trier of fact to find the defendant guilty beyond a reasonable doubt.").

Counts 3, 4, and 5 charged Nash with the presentation of false, fictitious, or fraudulent claims for tax refunds under 18 U.S.C. § 287. According to the government. Nash's claims violated § 287 because Nash knew that he owed taxes, knew that he was within the jurisdiction of the federal government. and knew that he was not owed these refunds. The government contends that Nash's refund claims in light of this knowledge were false, fictitious, or fraudulent.

On appeal, Nash argues that materiality is an element of this offense. and that the government failed to prove that his statements contained in the refund claims were material. He relies on the definition of materiality as set forth in *United States v. Gaudin*, 515 U.S. 506, 509 (1995). where the Supreme Court described a material statement as one that "must have a natural tendency to influence. or [be] capable of influencing, the decision of the decisionmaking body to which it was addressed." (internal quotation marks and citation omitted) (brackets in original). According to Nash, his claims for refunds, which bore the obvious earmarks of a tax protestor and were not processable, were immaterial because they would not have misled the IRS, and were thus incapable of influencing its decisions. Because the government failed to prove this element, he argues that a rational trier of fact could not find him guilty beyond a reasonable doubt of these charges.

Whether materiality is an element of 18 U.S.C. § 287 is an issue of first impression in this circuit. Four other circuits have held that materiality is not an element of § 287. *See United States v. Upton*. 91 F.3d 677, 685 (5th Cir. 1996); *United States v. Taylor*, 66 F.3d 254, 255 (9th Cir. 1995); *United States v. Parsons*, 967 F.2d 452, 455 (10th Cir. 1992); *United States v. Elkin*, 731 F.2d 1005. 1009 (2d Cir. 1984), *overruled on other grounds by United States v. Ali*, 68 F.3d 1468, 1474-75 (2d Cir. 1995). On the other hand, two circuits have held that it is. *See United States v. Wells*, 63 F.3d 745, 750 (8th Cir. 1995). *vacated on other grounds*, 519 U.S. 482 (1997); *United States v. Snider*, 502 F.2d 645, 652 n.12 (4th Cir. 1974).

First, in determining whether materiality is an element of § 287, we look to the plain language of the statute. Section 287 provides as follows:

Whoever makes or presents to any person or officer in the civil. military. or naval service of the United States. or to any department or agency thereof. any claim upon or against the United States. or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent. shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

As can be seen, the plain language of the statute neither mentions "materiality" nor in any way implies that the claim must be material. "When we find the terms of a statute unambiguous. judicial inquiry is complete except in rare and exceptional circumstances." *Demarest v. Manspeaker*. 498 U.S. 184. 190 (1991). The Supreme Court has recently held that materiality is not an element of another statute criminalizing false statements. 18 U.S.C. § 1014. based upon the statute's omission of the term "material." *See Wells*. 519 U.S. at 490.

Second, Congress expressly included "materiality" as a requirement in many of the statutes

criminalizing false statements. *See, e.g.,* 18 U.S.C. § 1001. The Supreme Court has said that we are to assume that Congress intended each of its terms to have meaning and should hesitate to treat statutory terms as surplusage. *See Bailey v. United States,* 516 U.S. 137, 145 (1995). Reading materiality into a statute such as § 287 where the term does not exist would therefore make surplusage of Congress's use of the term in other statutes, such as § 1001. *See Wells,* 519 U.S. at 493 n.14 (stating that a reading of materiality into those statutes that do not explicitly include this term as an element would be "contrary to our presumption that each term in a criminal statute carries meaning.").

Third, the legislative history of § 287 does not indicate that Congress intended to make materiality a necessary element of the statute. *See United States v. Irwin,* 654 F.2d 671, 682 (10th Cir. 1981), *overruled on other grounds by United States v. Daily,* 921 F.2d 994, 1004 n.11 (10th Cir. 1990).

Finally, a requirement of materiality would set up an incongruous "heads I win, tails you lose" dichotomy. Nash is in effect arguing that his inartful attempt to defraud the government would not have fooled the IRS, thus making his false claims "immaterial." To permit such a defense would reward the taxpayer with an ill-gotten refund if his scheme worked, yet allow him to claim immateriality if he got caught. The taxpayer cannot have it both ways, and there is no justification in allowing him to do so.

For all of the above reasons, we join the Second, Fifth, Ninth, and Tenth Circuits in holding that materiality is not an element of 18 U.S.C. § 287. We therefore affirm the district court's denial of Nash's motion for judgment of acquittal.

B. Exclusion of Nash's exhibits

In his defense, Nash sought to introduce eight exhibits (consisting of various writings regarding citizenship, tax liability, and the methods to achieve non-taxpayer status) that he believed supported his contention that he acted in good faith. The district court allowed the full admission of four of these exhibits into evidence, but rejected the remaining four on the ground that their probative value was substantially outweighed by the danger of confusion under Rule 403 of the Federal Rules of Evidence.

Upon review, "[w]e will not disturb the district court's admission of this evidence and its determinations of relevancy absent a clear abuse of discretion. We also apply an abuse of discretion standard to the district court's decision in balancing the potentially unfair prejudicial impact of evidence against its probative value." *United States v. Thomas,* 74 F.3d 701, 714 (6th Cir. 1996) (internal citation omitted).

Rule 401 of the Federal Rules of Evidence defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 403 provides that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

Exhibits 501, 504, 505, and 506 were admitted in full. Exhibit 501 was a set of documents ordered by Nash, including a cover sheet which read: "The documents in this package have been used by many people to change their official position from that of a taxpayer to a non-taxpayer." Exhibit 504 was a 1989 letter allegedly from a legislative correspondent regarding the precise provisions of the Internal Revenue Code that render an individual liable for income taxes. Exhibit 505 was a letter sent to Nash in 1992 concerning sample tax forms and information. Finally, Exhibit 506 was Nash's lecture notes regarding the Fourteenth Amendment, citizenship, tax liability, the Constitution, the Internal Revenue Code, and the Code of Federal Regulations.

In contrast, Exhibits 502, 503, 507, and 508 were not admitted. Exhibit 502 was the first page of the 1991 "Fresh A.I.R. Report" from the American Institute for the Republic. The district court rejected this exhibit after noting that "[i]t may be that there will be reference made to it, but there is extensive statutory citation within it, and commingled with some kind of narrative short story. . . .. I'm concerned about the potential jury confusion inherent in 502." Exhibit 503 was an eight-page letter purportedly prepared by a public accountant, income tax author, and lecturer, containing his conclusions pertaining to the filing of income tax returns. Because the district court determined that this "multi-page legal brief or quasi-legal brief" contained "case law mis-citations rather than citations," it did not receive the document as an exhibit. Exhibit 507, a 27-page response in opposition to the United States's motion for summary judgment in an unrelated tax evasion prosecution, was similarly rejected by the district court on the basis that "there's a high likelihood of finding inconsistencies with what the court has expressed in terms of the law and the kind of law that's supposedly briefed within these protest materials." Exhibit 508, also rejected, was a 48-page lecture outline containing essentially the same information as contained in Exhibit 506. The district court, however, stated that Nash could briefly mention or quote from these documents during his testimony in order to show the basis for his alleged good faith belief that the income tax laws did not apply to him. No objection to this procedure was raised by the government.

The record indicates that the district court did not abuse its discretion in excluding these exhibits pursuant to Rule 403 of the Federal Rules of Evidence. The proffered exhibits held the danger of confusing the jury by introducing purported legal analysis that was at odds with the district court's instructions. In addition, at least one of the excluded exhibits, Exhibit 508, also appears to have been cumulative.

Nash argues that in mounting a defense, he should have been permitted to show the jury all of the relevant written materials upon which he claims to have relied. In support of this argument, Nash cites *United States v. Gaumer*, 972 F.2d 723 (6th Cir. 1992). Like Nash, Gaumer was convicted for the willful failure to file income tax returns. At his trial, Gaumer sought to admit various documents on which he claimed to have relied in concluding that he was not required to file income tax returns. The district court refused to admit any of the documents based upon potential prejudice. *See id.* at 724. On appeal, this court reversed the district court, holding as follows:

Mr. Gaumer should . . . have been allowed to present the contents of the exhibits to the jury to the extent that the material was relevant. This does not mean that the trial court was required to permit the physical introduction of exhibits comprising hundreds of pages. At a minimum, however, defendant Gaumer should have been allowed to read relevant excerpts to the jury.

Id. at 725.

This court's holding in *Gaumer* is not contrary to the district court's rulings in the present case. *Gaumer* held that, to the extent relevant, a defendant should be allowed to present to the jury the pertinent excerpts from the documents on which he or she relied. In contrast to Gaumer not being permitted to introduce any of his exhibits, four of Nash's proffered exhibits were admitted in full to the jury. Nash was also permitted to briefly mention and quote from the documents that were excluded. The district court's ruling in the present case is therefore entirely consistent with the *Gaumer* decision. We consequently find that the district court's exclusion of the four exhibits was not an abuse of discretion.

C. Jury instruction that good faith is not a defense to Counts 3, 4, and 5

Over Nash's objection, the district court instructed the jury that good faith, although a defense to Counts

1 and 2, is not a defense to making false tax refund claims as charged in Counts 3. 4. and 5. The jurors were told to ignore any evidence regarding good faith in deciding Nash's guilt or innocence as to these counts. The court then issued the following instructions as to Counts 3, 4, and 5:

In order to sustain its burden of proof for the crime of making a false, fictitious or fraudulent claim as charged in Counts III, IV and V . . . ., the government must prove the following four essential ingredients or elements beyond a reasonable doubt. One: That the defendant made or presented a claim to a department or agency of the United States for money or property. Two: The claim was false. fictitious or fraudulent. Three: The claim was material. And four: The defendant knew at the time that the claim was false. fictitious or fraudulent.

"The standard of review for jury instructions is that they are reviewed as a whole to determine whether they adequately inform the jury of relevant considerations and provide a basis in law for the jury to reach its decision." *Innes v. Howell Corp.*, 76 F.3d 702, 714 (6th Cir. 1996) (internal quotation marks and citation omitted). "The district court may be reversed only if the instructions, viewed as a whole, were confusing, misleading, or prejudicial." *Id.* (internal quotation marks and citation omitted).

Nash claims that he did not file the tax refund claims with the knowledge that they were false. fictitious. or fraudulent. Rather, he submits that he did so based on his good faith belief that he was not within the jurisdiction of the federal government, that he was not obligated to pay income taxes. that he had mistakenly paid taxes in prior years, and that he was therefore due the refunds. He argues that the district court's instructions effectively told the jury to ignore whether Nash knew that the refund claims were false, and that these instructions deprived him of his right to a fair trial.

Nash specifically argues that good faith is a defense to the charge of presenting false, fictitious. or fraudulent claims. He cites *Cheek v. United States*, 498 U.S. 192 (1991). in support of this argument. In *Cheek*, the defendant was convicted of attempting to evade income taxes and of failing to file income tax returns, in violation of 26 U.S.C. §§ 7201 and 7203. In both of these statutes. "willfulness" is an element of the offense. The Supreme Court held that in order to meet its burden of proof on this element. the government had to negate the defendant's claim "that because of a misunderstanding of the law. he had a good-faith belief that he was not violating any of the provisions of the tax laws." *Id.* at 202. According to Nash, if good faith was a valid defense in *Cheek*, it is also a valid defense in this case.

The district court attempted to distinguish *Cheek*, stating that the holding in *Cheek* "pivot[ed] upon the presence of willfulness." Because willfulness is not expressly stated as an element under 18 U.S.C. § 287, the district court ruled that the good faith defense did not apply. This distinction. however. is not persuasive, because 18 U.S.C. § 287 requires that Nash file the claims "knowing" that they are false. fictitious, or fraudulent. If Nash truly believed in good faith that he was not obligated to pay income taxes, and that he was owed these refunds, then he could not have filed his refund claims *knowing* that they were false, fictitious, or fraudulent. Rather, he would have believed that they were legitimate refund claims. Moreover, various courts have held that good faith is a potential defense to 18 U.S.C. § 287. *See. e.g., United States v. Upton.* 91 F.3d 677. 683 (5th Cir. 1996) (holding that the defendants' good faith defense was substantially covered by the jury instructions); *United States v. Dorotich.* 900 F.2d 192. 193 (9th Cir. 1990) (same); *Quinton v. Department of Transp.*, 808 F.2d 826. 828 (Fed. Cir. 1986) (deferring to the Merit Systems Protection Board's conclusion that the defendant's good faith defense was incredible). For these reasons, we conclude that good faith is a valid defense to Counts 3. 4. and 5. and that the district court erred in instructing the jury otherwise.

Our conclusion does not result in a reversal of Nash's conviction, however. if we find that such an error was harmless. In *United States v. Mauldin*, 109 F.3d 1159, 1161 (6th Cir. 1997). this court held that convictions should be upheld when the court is convinced that the jury would have convicted the

defendant even if it had been properly instructed. In this case, by convicting Nash on Counts 1 and 2, the jury necessarily found that Nash had not acted on a good faith belief that he was exempt from the obligation to pay taxes. Nash asserted the same good faith defense as to Counts 3, 4, and 5. If the jury found that he did not have a good faith belief as to Counts 1 and 2, it would have necessarily found that he did not have a good faith belief as to Counts 3, 4, and 5. Any possible error in the jury instructions was therefore harmless.

Moreover, other circuits have held that "[t]he failure to give an instruction on a 'good faith' defense is not fatal so long as the court clearly instructed the jury as to the necessity of 'specific intent' as an element of the crime." *Dorotich*, 900 F.2d at 193; *see also Upton*, 91 F.3d at 683 ("This Circuit permits a district court to refuse to submit an instruction regarding a good faith defense if the defense is substantially covered by the charge given and the defendant has had the opportunity to argue good faith to the jury." (internal quotation marks omitted)). In this case, the district court clearly instructed the jury that it had to find that Nash knew that the claims were false, fictitious, or fraudulent at the time that he submitted them to the IRS. The district court's failure to given an additional instruction regarding the good faith defense was therefore harmless error.

For all of the above reasons, we affirm Nash's convictions.

D. Sentence enhancement for obstruction of justice

Nash also claims that the district court improperly applied the two-level enhancement for obstruction justice pursuant to USSG § 3C1.1. Although a district court's findings of facts are reviewed under a clearly erroneous standard, its determination of whether the facts constitute an obstruction of justice is a mixed question of law and fact that is reviewed *de novo*. *See United States v. McDonald*, 165 F.3d 1032, 1034 (6th Cir. 1999).

USSG § 3C1.1 states that if "the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice during the course of the investigation, prosecution, or sentencing . . ., increase the offense level by 2 levels." Application Note 4 lists the types of conduct to which this application applies, including "committing, suborning, or attempting to suborn perjury." USSG § 3C1.1, Application Note 4(b).

In defining perjury, the United States Supreme Court has relied on the generally accepted definition provided in 18 U.S.C. § 1621, the federal criminal perjury statute. "A witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory." *United States v. Dunnigan*, 507 U.S. 87, 94 (1993). A defendant may not be found to have obstructed justice solely because he or she testified and is found guilty by a jury. *See United States v. Burnette*, 981 F.2d 874, 878 (6th Cir. 1992). Rather, "the district court must specify what statements the defendant made that were perjurous." *United States v. Maliszewski*, 161 F.3d 992, 1030 (6th Cir. 1998).

After reviewing all of the evidence and judging Nash's credibility, the district court concluded as follows:

This is not a man who could reasonably be in a position to have believed in any sort of good faith what he was postulating to this jury. He falsified the evidence, virtually the entire thrust except maybe some of his biographical data, the entire thrust of his testimony was false. I find by the preponderance of the evidence it was material because it went to the heart of the truth or lack thereof of his proper good faith. And I find that the testimony of the Defendant soundly supports the suggestion of Government counsel

that the obstruction enhancement should be added two levels.

In support of this conclusion, the district court referred to the second page of Nash's Exhibit 501, where the reader is urged to "bluff" in responding to the IRS. The district court found that this document advocated perjury, and that Nash had attempted to bluff the jury in this case. The evidence, according to the district court, demonstrated that Nash had lied when he testified that he had no financial motivations and that he believed that he was a nonresident alien.

The court also cited Exhibit 152E, a document indicating that Nash held back $25,000 in Medicare bills into the next year for tax planning purposes. According to the government, this document "totally belied [Nash's] statement that he was not a person subject to having to pay income taxes or the filing of income tax returns." In response to Nash's denial of authorship and his allegation that the exhibit came from his accountant, the district court stated that no one other than Nash would have had the knowledge or motivation to create this document.

Although not specifically mentioned by the district court during sentencing, the government presented other evidentiary support that may have influenced the court's determination that Nash committed perjury. In particular, the government cited Nash's 1991 Michigan State Income Tax Return and his receipt of a refund in the amount of $840. The government argued that the Michigan return was contrary to Nash's testimony at trial that he was not obligated to pay income taxes, that he had no financial motivations, and that financial motivations played no role in his decision to stop paying income tax. Nash admitted filing this return and receiving the refund, although he testified that he did not believe that he was legally required to file a return. He also argued that some of the material he received indicated a difference between state and federal citizenship, which led him to believe that being a citizen of one does not necessarily make him a citizen of the other.

The government also cited Nash's designation as a United States citizen on various investment applications, and argued that this directly contradicted Nash's testimony that he believed in good faith that he was a nonresident alien. Nash admitted at trial that he designated himself as a United States citizen on these applications, but pointed out that he had made repeated inquiries to the IRS regarding the basis of his citizenship for tax purposes, to which he received no response. He also noted that the bulk of the investment applications predated his conclusion that he was a nonresident alien, which, according to his testimony, crystallized in the mid-summer or fall of 1991. As for a 1993 application on which he again indicated that he was a United States citizen, Nash repeated that he was still writing the IRS during this period of time requesting an explanation of his citizenship and tax liability status.

The district court has the unique opportunity to witness the defendant's testimony and evaluate his or her credibility. This court has upheld the district court's finding of obstruction of justice "where the judge makes a *specific finding* that a defendant lied." *Burnette*, 981 F.2d at 879 (italics in original). In this case, because the district judge specified which of Nash's statements he believed were perjurous, and because there was supporting evidence introduced by the government, we affirm the application of the sentence enhancement for obstruction of justice.

E. Sentence enhancement for tax loss greater than $120,000

Finally, Nash claims that the district court improperly applied the two-level enhancement pursuant to USSG § 2T4.1(J) for a tax loss to the government of greater than $120,000. A district court's findings of fact are reviewed under a clearly erroneous standard. *See United States v. Latouf*, 132 F.3d 320, 331 (6th Cir. 1997) ("A court's factual findings in relation to the application of the Sentencing Guidelines are subject to a deferential 'clearly erroneous' standard of review."), *cert. denied*, 118 S. Ct. 1572 (1998).

USSG § 2T4.1 contains a tax table indicating the appropriate offense level for a given tax loss. According to the table. if a defendant has a tax liability of more than $70.000 but less than $120.000. the court is to apply Offense Level 14. USSG § 2T4.1(I). If the defendant has a tax liability of more than $120.000 but less than $200.000. the court is to apply Offense Level 15. USSG § 2T4.1(J).

Mr. Bak, a CPA retained by Nash, reported that Nash had a federal income tax liability of $11.033 for 1991 and $32.962 for 1992. The government's witness. Donald Hinkle. computed a slightly higher liability: $11.103 for 1991 and $33.174 for 1992. Because Nash also failed to file a tax return for 1993. Teneyuque computed that Nash owed $83.644 for that year. As part of her testimony. Teneyuque further stated that Nash owed significantly higher tax liabilities for 1991 and 1992 -- $20.199 and $45.600. respectively -- than the amounts calculated by either Bak or Hinkle. There was. however. no testimony as to how Teneyuque calculated the figures for these earlier years. and because she prepared these figures prior to trial, she did not have the benefit of either Bak's or Hinkle's calculations. In making its determination, the district court accepted the lower figures determined by Bak for 1991 and 1992. thereby giving Nash the benefit of the doubt. When combined with Teneyuque's calculation for 1993. the court determined a total tax liability in the amount of $127,643 ($11,037 + $32.962 + $83. 644 = $127,643). It therefore appropriately applied Offense Level 15, the offense level for a tax loss greater than $120,000.

Nash concedes the 1993 tax liability as computed by Teneyuque, but argues that the figures provided by Hinkle for 1991 and 1992 were 25-40% lower than those provided by Teneyuque for those years. According to Nash, his 1993 tax liability, calculated to be $83,644, should therefore be discounted by the low end of this variance ($83,644 x 25% = $20,911), making his total tax loss $106.798 ($11.103 + $32,962 + $62,733 [$83,644 - $20,911] = $106,798). Offense Level 14 would be the appropriate level for a tax loss of this amount.

Contrary to Nash's assertions, the district court properly concluded that Nash had a tax liability of greater than $120,000. First, although it did not have to do so, it utilized the figures for 1991 and 1992 as determined by Bak, thereby giving Nash the benefit of the lowest figures. Second. there is no evidence explaining how Teneyuque calculated Nash's tax liabilities for those years. Third. Nash's argument that he should receive the benefit of the variance between Teneyuque's and Hinkle's figures for 1991 and 1992 in calculating his 1993 tax liability has no legal support. The district court therefore properly calculated Nash's tax loss and applied the appropriate offense level.

III. CONCLUSION

For all of the reasons stated above. we **AFFIRM** Nash's conviction and sentence enhancements.

FOOTNOTES

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*. The Honorable Edmund A. Sargus. Jr.. United States District Judge for the Southern District of Ohio. sitting by designation.

The power to Destroy

IRS agent assaults taxpayer in Vegas

A. We have not received any updates to this article as to what if any follow up action has transpired.

B. If you go to the last paragraph the IRS spokesman says that Wiley Davis should file his complaint with the "general investigations division"

C. If this ever happens to you, we have included part of the IRS handbook 10.3.1.1 Internal Security Chapter 14 conduct Investigations

D. This handbook explains in detail how to file a complaint with Internal Security.

E. We have had one experience in a meeting with an IRS revenue agent of 16 years and her supervisor. When the young lady we were with started asking some pointed questions with exhibits, the supervisor jumped out of his chair and started screaming at this young lady. We have a copy of the transcript.

F. You must understand everything since the "Tax Reform Act of 1998" was passed, they just can't keep doing their same old rip-offs. There is a lot of pressure on those people, they are having a hard time lying to us and then expecting us to believe them.

THE POWER TO DESTROY

IRS agent assaults
taxpayer in Vegas

No charges filed by police. FBI. U.S. attorney

No charges have been filed yet against an Internal Revenue Service agent who witnesses say assaulted a taxpayer with a chair during a recent hearing in Las Vegas.

According to the Las Vegas Tribune newspaper. the Oct. 10 incident occurred when Wiley Davis. an IRS Team Manager from Colorado. became agitated with Las Vegas resident Ken Nicholson during a hearing to discuss an IRS lien against some property owned by Nicholson.

During the hearing. Nicholson said he would be willing to pay whatever the IRS said he owed if Davis could produce the section of IRS code authorizing the lien against his property.

Witnesses told the paper that when Davis could not produce that code. he became angry, lost his self-control and threw a chair at Nicholson.

"Davis then grabbed the chair and hit Nicholson in the groin and legs. Security officers came in and stopped the melee. Police arrived shortly thereafter and are now investigating." the paper said.

Nicholson came to the hearing with materials he had obtained from noted tax expert Irwin Schiff.

Keith Milbourn. a friend of Nicholson who had come to the meeting with him. described the incident.

"By the time we called the police there were about ten people in the hallway including other agents. the witnesses and security guards." Milbourn told the paper. adding that another IRS agent who was in the room. Renee Swells. was reportedly "surprised and shocked" by Davis' action.

Both men said they tried to report the incident to the U.S. attorney's office. as well as the FBI. but both Justice Department entities declined to take their report.

"I know that if I would have assaulted the IRS agent. I would be sitting in jail right now." Nicholson told the paper. "But because the IRS agent is the one who assaulted me. Metro [Las Vegas Police] only took a statement and let him go."

A spokesman for the Las Vegas Police Department told WorldNetDaily that investigators informed Nicholson he had to contact the department within five days of the incident if he wanted to initiate action against Davis. since it was "just a misdemeanor battery." LVMPD officials say Nicholson has not contacted the department seeking action against Davis.

The spokesman also said the department "gave all of the information to the IRS Criminal Investigation Division."

"If [Nicholson] wants prosecution. he can contact the general investigations division" within the department "and they can move forward on it." the spokesman added.

Handbook 10.3.1.1
Internal Security

Chapter 14
Conduct Investigations

Contents

[10.3.1.1] 14.1 (07-30-1998)
OVERVIEW

1. Internal Security investigates complaints and allegations against IRS employees. The results of investigations are submitted to management without recommendation as to any action to be taken.

[10.3.1.1] 14.2 (07-30-1998)
INTERNAL SECURITY RESPONSIBILITIES

1. Internal Security is responsible for conducting investigations of alleged misconduct

against IRS employees at the grade 14 level and below.

2. The Office of Inspector General, Department of Treasury, is responsible for investigating alleged misconduct by the following IRS employees:
   - Grade 15 and higher level employees
   - All Inspection employees
   - Office of Chief Counsel employees (excluding employees of the National Director, Office of Appeals, who are investigated by Internal Security)

3. The Inspector General may request that Internal Security investigate employees in the preceding categories. Such investigations may be conducted independently, or jointly with the Inspector General.

[10.3.1.1] 14.3 (07-30-1998)
COMPLAINT PROCEDURES

1. Transmit complaints or allegations against IRS employees in writing to the Supervisor-in-Charge. If the complaint warrants investigation, initiate a case within 15 calendar days of receipt of the information.
2. A complaint which is not specific or significant enough to warrant an immediate investigation will be placed in the Miscellaneous Information File (MIF) within 15 calendar days of its receipt.
3. Report allegations that are appropriate to the Inspector General (as in text 14.2 of this chapter) in a written format through channels to the Office of Inspector General.
4. Forward complaints unrelated to Inspection's mission to the appropriate agency via memorandum from the Regional Inspector. Referrals to another agency must be done properly to avoid violations of disclosure laws or the Privacy Act. (See Chapter 4 for additional information.)
5. Refer violations of federal statutes under Internal Security's jurisdiction to the U.S. Attorney for prosecutive opinion. (See Chapter 15 of this Handbook for instructions concerning referral of disclosure violations.)

[10.3.1.1] 14.4 (07-30-1998)
INVESTIGATIVE JURISDICTION

1. The Chief Inspector is responsible for detecting and investigating various violations involving IRS employees (and former employees under certain circumstances).
2. Internal Security investigates the following violations, among others:
   - Charges of a criminal nature such as extortion, acceptance of a bribe, willful theft or destruction of government records, embezzlement of government funds or property and use or sale of controlled substances (drugs)
   - Official or moral misconduct which may result in removal or disciplinary action
   - Presenting false claims, including submitting false expense vouchers
   - Accepting compensation or gratuities for rendering assistance in tax matters, for preparation of tax returns, or in connection with the examination of tax returns
   - Complaints or allegations of irregularities of any nature made against employees
   - Alleged or suspected situations potentially affecting public confidence in the integrity of the Service
   - Unauthorized disclosure of tax information

[10.3.1.1] 14.5 (07-30-1998)
INITIATING CONDUCT INVESTIGATIONS

1. Notify the Regional Commissioner or appropriate National Office official when a Conduct investigation is initiated. Do not make the notification in situations where the notification might impair the successful completion of the investigation.

[10.3.1.1] 14.5.1 (07-30-1998)
Conduct Case Elements

1. Initiate a Conduct investigation if the allegation contains the following three elements:
   - One or more specific allegations
   - Positive identification of an employee
   - A reliable source for the allegation or complaint
2. If any one of the above elements is missing, initiate a Special Inquiry—Employee investigation.

[10.3.1.1] 14.5.2 (07-30-1998)
Allegations Against Senior Officials

1. An IRS senior official is a Presidential appointee, a member of the Senior Executive Service, or a grade 15 or higher level employee. Refer allegations to the Office of Inspector General, Department of Treasury. The Regional Inspector may also refer the complaint directly to the regional office of the Inspector General, and send a copy of the referral and complaint to the Section Chief, Integrity and Hotline Section, Office of Policy and Oversight, in the National Office.

[10.3.1.1] 14.5.3 (07-30-1998)
Simultaneous Conduct/Personnel Security Investigations

1. When an allegation of misconduct is received during the course of a Personnel Security investigation, initiate a Conduct case and investigate the cases simultaneously. The alleged misconduct must have occurred after the employee entered on duty with the government. Investigate and report incidents preceding entry on duty within the framework of the Personnel Security case.
2. Where simultaneous Conduct and Personnel Security cases are investigated, adjudicative action on the Conduct case should be resolved before, or simultaneous with, the Personnel Security determination. In this situation, it is imperative to complete the Conduct investigation before the employee's probationary period expires.

[10.3.1.1] 14.6 (07-30-1998)
INVESTIGATIVE PROCEDURES

1. Conduct sufficient investigation to prove or disprove the complaint or allegation, or to show that the issue cannot be resolved.
2. Make a thorough analysis of the complaint or allegation and prepare an investigative work plan outlining all evident steps. Place this information on a Form 6501, Chronological Case Worksheet, or a regionally approved electronic equivalent.

[10.3.1.1] 14.6.1 (07-30-1998)
Initial Interviews

1. Whenever possible, interview the complainant within 10 days. If extenuating circumstances prevent this, contact the complainant by telephone to arrange for a

mutually convenient interview time.

2. Where there is no reasonable indication that a criminal statute has been violated, consider interviewing the subject at the outset of the investigation.

[10.3.1.1] 14.6.2 (07-30-1998)
Pledges of Confidentiality

1. See Chapter 4 of this Handbook concerning pledges of confidentiality for witnesses and requirements for reporting such matters on the Form 8052. Generally, do not extend an assurance of confidentially to any individual who is involved in a violation. In a borderline case, seek the advice of the Supervisor-in-Charge.

[10.3.1.1] 14.6.3 (07-30-1998)
Granting Confidentiality

1. In certain instances, an individual who furnishes information on a one-time basis may request confidentiality. If good and sufficient reason exists, identify the individual in the report of investigation as "T-1", "T-2", etc. Seal the true name, address, and occupation of the individual in a Form 6504, Restricted File Envelope, and attach it to the back of the Regional Inspector's copy of the report of investigation.

[10.3.1.1] 14.6.4 (07-30-1998)
Requesting CI or Examination Assistance

1. The investigator may determine that the Conduct case requires a tax audit by Examination or investigation by Criminal Investigation. If the Supervisor-in-Charge concurs, he/she will submit a written request to the appropriate official.

[10.3.1.1] 14.7 (07-30-1998)
REPORTS OF INVESTIGATION

1. Close and/or refer Conduct cases for criminal prosecution or administrative adjudication within 45 calendar days after the last investigative step.
2. Prepare reports using the standard format outlined in Chapter 3 of this Handbook.
3. The evaluation of an official act or decision must not consist of an opinion or conclusion by an Inspection employee. The report should cite a statute, regulation, or ruling which covers the action or decision. If an evaluation requires an opinion, conclusion, or interpretation, attribute the evaluation to an appropriate official or a qualified technical employee.
4. Investigate and report Conduct cases promptly to minimize the possibility of an appeal by the employee on the grounds that prompt action was not taken by IRS.

[10.3.1.1] 14.8 (07-30-1998)
REPORT OF CONFLICT OF INTEREST REFERRALS

1. Use Office of Government Ethics (OGE) Form 202, Notification of Conflict of Interest Referral, to report any alleged violation of federal conflict of interest statutes, 18 USC 203, 205, 207, 208 and 209, referred to the Department of Justice.
2. Pursuant to 5 USC APP. 402(e)(2) and 5 CFR 238.603, Inspection is required to concurrently report any referral to all of the following: Director, Office of Government Ethics (OGE)
Suite 501, 1201 New York Avenue, NW
Washington, DC 20005-3917Department of the Treasury
Deputy General Counsel

Designated Agency Ethics Official (DAEO)
Room 3000
2500 Pennsylvania Ave., NW
Washington, DC 20220
Director, Office of Policy and Oversight

3. Use OGE Form 202 to make follow-up reports concerning any indictment, information or declination of prosecutions and any disciplinary or corrective action initiated, taken or proposed by the Service.

NOTE:

Contact the Chief, Program Oversight Section, Office of Policy and Oversight, if the investigation involves undercover operations, electronic equipment usage and/or the necessity to protect grand jury information, for reporting requirement guidance.

[10.3.1.1] 14.9 (07-30-1998)
RECOVERING UNJUST ENRICHMENTS

1. Consider civil sanctions against employees and nonemployees who unjustly enrich themselves as an alternative to or in addition to criminal prosecutions. Discuss civil and criminal aspects of fraud cases with U.S. Attorneys to ensure that all available sanctions against fraud are used to the advantage of the government.

2. With the concurrence of the prosecuting attorney, consider discussing debt collection activity with Service officials following an employee's arrest, suspension, or removal, when the employee may be indebted to the government due to illicit enrichments. (See 26 USC 7803 for additional information.) Consider obtaining a search warrant to search for and seize any stolen or embezzled property that might be in the custody of the subject.

[10.3.1.1] 14.9.1 (07-30-1998)
Service Center Coordination-Theft and Embezzlement Cases

1. Investigation may reveal that taxpayers did not receive credit to their accounts due to embezzlement or theft. The Service Center should be immediately notified by memorandum from the Deputy Assistant Regional Inspector (Internal Security). The memorandum should:
   - Request that the injured taxpayer's account be credited for the embezzled amount
   - Include the assigned case number, taxpayer's name and identification number, type of tax and tax period and amount and date of payment
   - Briefly describe the crime
   - Contain the name and telephone number of the case Inspector

NOTE:

If the taxpayer cannot be identified, make the service center aware of the situation in case of future taxpayer inquiries or complaints.

2. See Exhibit 14-1 for an example of the memorandum.

[10.3.1.1] 14.9.2 (07-30-1998)
Freezing Employee Funds

1. Internal Security can take steps to freeze government funds due an employee who has embezzled government funds.

1. Obtain concurrence from the U.S. Attorney.
    2. Notify the Chief, Personnel Branch where the employee works, using a memorandum as shown in Exhibit 14-2.
    3. Send a copy of the memorandum to the appropriate Service Center Accounting Branch, Revenue Accounting Control System (RACS). RACS will initiate the process with the employee's personnel office.
    4. Keep the U. S. Attorney's office apprised to ensure that criminal prosecution is not influenced by administrative action.
2. Notify the Service Center Director of the results of any prosecution and sentencing by memorandum from the Assistant Regional Inspector (Internal Security). This is necessary for the service center to determine when to initiate collection action and the amount to be assessed.
3. Court-ordered restitution requires that the U.S. Attorney's Office and Probation Office be provided with taxpayer identification, tax period, and the appropriate Service Center Accounting Branch address. (See Exhibit 14-3.)
4. A court order for partial restitution as the result of a conviction does not prevent the Service from attempting to recover the remainder of the embezzled funds. However, if the defendant agrees to restitution as part of the plea agreement, the Service will probably be limited to the amount agreed upon in the plea agreement. (See IRM 30(167)0 Losses and Shortages, for additional information.)
5. When the investigation is completed, send a copy of the Report of Investigation to the Service Center Director with a transmittal memorandum. (See Exhibit 14-4.)

Procedural Due Process section
Part 1

The guarantee of procedural fairness flows from both the Fifth and fourteenth amendment's due process clauses of the constitution. For the guarantee of procedural due process to apply, it must first be shown that a deprivation of a significant life, liberty, or property interest has occurred. This is necessary to bring the Due process clause into action.

The first example we have is a federal arrest warrant, which is a written order of the court. Made on behalf of the United States, and is to be based upon a complaint issued pursuant to statute and/or court rule and commands law enforcement officer to arrest a person and bring him before magistrate fed.r.crim.P 4 and 9.

The second example is a summons form used to notify the defendant that an action has been instituted against him, and that he is required to answer to it at a time and place named.

The third example is the statement that a state or federal officer must read to you if you are arrested.

The fourth example is the statement that is to be read to you before you can be interrogated and if they do not, the answers you give cannot be admissible as evidence in a trial or hearing.

[Caption]

TO: [Designation of officer to whom warrant is issued, e.g., "any United States Marshal or any other authorized officer"; or "United States Marshal for _____ District of _____ "; or "any United States Marshal"; or "any Special Agent of the Federal Bureau of Investigation"; or "any United States Marshal or any Special Agent of the Federal Bureau of Investigation," or "any agent of the Alcohol Tax Unit"]:

YOU ARE HEREBY COMMANDED to arrest [person's name] and bring him forthwith before the nearest available United States Magistrate to answer to a complaint charging him with [insert description of offense], in violation of _____ USCS § _____

[Signature] _____

[Name of Magistrate]
United States Magistrate

RETURN

Received [date], at [location], and executed by arrest of [person's name] at [place of arrest], on [date].

Dated: _____   [Signature] _____

[Name of Officer]
[Title of Officer]

_____ District of _____
By _____ , Deputy

[CAPTION]

A complaint, indictment or information has been filed in this court against you, [defendant's name], charging that in [County, State]: [insert description of offense]

YOU ARE HEREBY SUMMONED to appear before this court at [Street Address, City, State] at _____ [a.m./p.m.] on [date].

YOU ARE FURTHER ORDERED to appear at [name of agency], [Street Address, City, State] on or before [date] for the purpose of being fingerprinted and photographed.

IF YOU FAIL TO APPEAR AS REQUIRED HEREIN, A WARRANT WILL BE ISSUED FOR YOUR ARREST.

Dated: _____   [Signature]

                                   [Name of Magistrate]
                                   United States Magistrate

OFFICER'S RETURN

I certify that I personally served this summons on [defendant's name] at _____[a.m./p.m.] on [date] at [location].

                                   [Signature]

                                   [Name of Officer]
                                   [Title of Officer]

If you are arrested . . .

YOU HAVE THE FOLLOWING RIGHTS

1. YOU HAVE THE RIGHT TO REMAIN SILENT. Do not resist the police officer. Give him your name and address.

2. YOU HAVE THE RIGHT TO HAVE A LAWYER immediately after you are arrested and to make three phone calls from the police station. Ask to make these calls. Call your lawyer immediately.

3. IF YOU CAN'T AFFORD A LAWYER and you need legal advice, ask for it. An attorney must be provided free of charge if you can't afford a lawyer.

4. YOU HAVE THE RIGHT TO refrain from answering questions at any time while you are being questioned.

1. "You have the right to remain silent and refuse to answer questions." Do you understand? [Subject's reply].

2. "Anything you do say may be used against you in a court of law." Do you understand? [Subject's reply].

3. "You have the right to consult an attorney before speaking to the police and to have an attorney present during any questioning now or in the future." Do you understand? [Subject's reply].

4. "If you cannot afford an attorney, one will be provided for you without cost." Do you understand? [Subject's reply].

5. "If you do not have an attorney available, you have the right to remain silent until you have had an opportunity to consult with one." Do you understand? [Subject's reply].

6. "Now that I have advised you of your rights, are you willing to answer questions without an attorney present?" [Subject's reply].

Research Reference
General References

5 Am Jur 2d, Arrest 1 et seq.

2A Am Jur Pl & Pr Forms (Rev), Arrest, Forms, 1 et seq.

23 Am Jur POF2d 713, Custodial Interrogation under Miranda v Arizona

26 Am Jur POF2d 617, False Imprisonment- Failure to take Arrestee before

44 Am Jur POF2d 229, Lack of probable cause for warrantless arrest
ALR Index: Arrest, Miranda warnings.

Annotation References

What constitutes assertion of right to counsel following Miranda warnings-state cases, 83 ALR4th 433.

Denial of accused's request for initial contact with attorney-cases involving offenses other than drunk driving, 18 ALR4th 743

Denial of, or interference with, accused's right to have attorney initially contact accused, 18 ALR4th 669

Right to resist excessive force used in accomplishing lawful arrest, 77 ALR3d 281.

What constitutes "custodial interrogation" within rule of Miranda v Arizona requiring that suspect be informed of his federal constitutional rights before custodial interrogation, 31 ALR3d 565

What constitutes assertion of right to counsel following Miranda warnings-federal cases, 80 ALR fed 622.

Necessity that Miranda warnings include express reference to right to have attorney present during interrogation, 77 ALR fed 123.

Constitutionality of searching premises without warrant as incident to valid arrest-Supreme Court cases, 108 L Ed 2d 987.

Supreme Court's view as to what constitutes valid waiver of accused's federal constitutional right to counsel, 101 L Ed 2d 1017.

Requirement, under Federal Constitution, that law enforcement officers' custodial interrogation of suspect cease after suspect requests assistance of counsel-Supreme Court cases, 83 L Ed 2d 1087.

What constitutes probable cause for arrest-Supreme Court cases, 28 L Ed 2d 978.