

# **IRS SEMINAR**

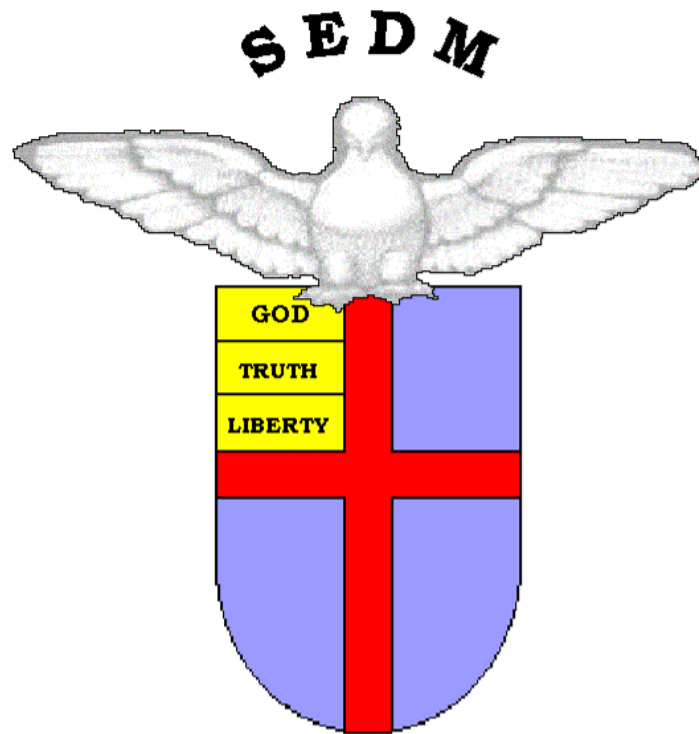
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## Willful failure to file return, supply information, or pay tax

### 26 USC 7203

						United States Statutes at Large				
1954 Code	1939 Code	Date Enacted	PL.#	Cong.	Sess.	Vol.	Part	Page	Chap.	Act Section
1 7203	145(a)	1938, May 28	No. 554	75	3	52	n/a	513	289	145
2	153(d)									
3	340	1938, May 28	No. 554	75	3	52	n/a	552	289	340
4	894(b)(2)(B)	1926, Feb. 26	No. 20	69	1	44	2/3	116	27	1114(a)
5	937	1932, June 6	No. 154	72	1	47	1/2	245	209	403
6		*1934, May 10	No. 216	73	2	48	2/2	753	277	403
7		*1935 Aug. 30	No. 407	74	1	49	1/2	1022	829	201(c)
8		*1938, May 28	No. 554	75	3	52	n/a	564	289	502
9	1024(a)	1932, June 6	No. 154	72	1	47	1/2	256	209	525
10	1718(a)	1926, Feb. 26	No. 20	69	1	44	2/3	116-117	27	1114(a),(b),(d),(f)
11	1821(a)(1)	1926, Feb. 26	No. 20	69	1	44	2/3	116-117	27	1114(a),(b),(d),(f)
12	2557(b)(2)	1926, Feb. 26	No. 20	69	1	44	2/3	116-117	27	1114(a),(b),(d)
13	2707(b)	1926, Feb. 26	No. 20	69	1	44	2/3	117	27	1114(d)
14	3604(c)	1938, May 28	No. 554	75	3	52	n/a	573	289	803



-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 851.)

-CROSS-

CROSS REFERENCES

Costs in criminal proceedings, see section 1918 of Title 28, Judiciary and Judicial Procedure.

Effective date of this chapter, see section 7851 of this title.

Period of limitation on criminal prosecutions, see section 6531 of this title.

-SECTREF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7501 of this title.

-CITE-

26 USC Sec. 7203

01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter A - Crimes

PART I - GENERAL PROVISIONS

-HEAD-

Sec. 7203. Willful failure to file return, supply information, or pay tax

-STATUTE-

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 851; Pub. L. 90-364, title I, Sec. 103(e)(5), June 28, 1968, 82 Stat. 264; Pub. L. 97-248, title III, Sec. 327, 329(b), Sept. 3, 1982, 96 Stat. 617, 618; Pub. L. 98-369, div. A, title IV, Sec. 412(b)(9), July 18, 1984, 98 Stat. 792; Pub. L. 100-690, title VII, Sec. 7601(a)(2)(B), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101-647, title XXXIII, Sec. 3303(a), Nov. 29, 1990, 104 Stat. 4918.)

(f) **REFUNDS AND CREDITS.**—Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

Refunds and credits.  
*Pub.*, p. 514.

#### SEC. 144. PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 15 per centum thereof, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

Payment of corporation income tax at source.  
 By foreign corporations not in business in United States.

*Act*, p. 511.

*Proviso.*  
 Interest, tax-free covenant bonds.

#### SEC. 145. PENALTIES.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Penalties.

Willful failure to pay tax, make returns, etc.

Penalty.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Willful failure to collect, etc., tax; evading payment, etc.

Penalty.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

"Person" defined.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

Foreign personal holding companies, etc., failure to file information returns.  
*Act*, p. 352.

#### SEC. 146. CLOSING BY COMMISSIONER OF TAXABLE YEAR.

##### (a) TAX IN JEOPARDY.—

(1) **DEPARTURE OF TAXPAYER OR REMOVAL OF PROPERTY FROM UNITED STATES.**—If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove

Closing by Commissioner of taxable year.  
 Tax in jeopardy.

Departure of taxpayer or removal of property from United States.

calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this Act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

Time extension permitted.

Annual returns.

Act, p. 547.

(b) **ANNUAL RETURNS.**—On the sixtieth day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such sixtieth day 50 per centum or more in value of the outstanding stock of such company is owned directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), shall file with the Commissioner a return setting forth the same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no return shall be required under this subsection.

Penalties.

#### SEC. 348. PENALTIES.

Willful failure to comply with specified sections.

Act, p. 513.

Any person required under section 338 or 339 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$2,000, or imprisoned for not more than one year, or both.

Mutual investment companies.

#### Supplement Q—Mutual Investment Companies

##### SEC. 361. DEFINITION.

Term defined.

Act, p. 557.

(a) **IN GENERAL.**—For the purposes of this title the term “mutual investment company” means any domestic corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in Title IA, if—

(1) It is organized for the purpose of, and substantially all its business consists of, holding, investing, or reinvesting in stock or securities; and

(2) At least 95 per centum of its gross income is derived from dividends, interest, and gains from sales or other disposition of stock or securities; and

(3) Less than 30 per centum of its gross income is derived from the sale or other disposition of stock or securities held for less than six months; and

(4) An amount not less than 90 per centum of its net income is distributed to its shareholders as taxable dividends during the taxable year; and

(5) Its shareholders are, upon reasonable notice, entitled to redemption of their stock for their proportionate interests in the corporation's properties, or the cash equivalent thereof less a discount not in excess of 3 per centum thereof.

REVENUE ACT OF 1924.  
Claims barred by  
limitation.  
Vol. 39, p. 756; Vol.  
40, pp. 300, 1057.

"(b) Except as provided in section 284 of the Revenue Act of 1926, claims for credit or refund (other than claims in respect of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, or the Revenue Act of 1918) which at the time of the enactment of the Revenue Act of 1921 were barred from allowance by the period of limitation then in existence, shall not be allowed."

Suits, etc., by tax-  
payers.

LIMITATIONS UPON SUITS AND PROCEEDINGS BY THE TAXPAYER

Law reenacted.  
Vol. 43, p. 343.

SEC. 1113. (a) Section 3226 of the Revised Statutes, as amended, is reenacted without change, as follows:

Suits for recovery of  
erroneously collected  
taxes, etc., not allowed  
until claim therefor  
filed.  
R. S., sec. 3226, p.  
619.

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after any such disallowance notify the taxpayer thereof by mail."

If paid under protest,  
etc., allowed.

Time limitation ex-  
tended.

Notification of dis-  
allowance.

Proceedings prior to  
Act of 1924 not affected.

(b) This section shall not affect any proceeding in court instituted prior to the enactment of the Revenue Act of 1924.

Penalties.

PENALTIES

For willful failure to  
pay tax, make returns,  
etc.  
Vol. 43, p. 343, amend-  
ed.

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Punishment for.

For willful failure to  
collect tax, evading  
payment, etc.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Punishment for.

Assisting in prepara-  
tion of fraudulent re-  
turns, etc.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall



**SEC. 402. CREDITS AGAINST TAX.**

(a) The credit provided in section 301(c) of the Revenue Act of 1926, as amended (80 per centum credit), shall not be allowed in respect of such additional tax.

(b) (1) If a tax has been paid under Title III of this Act on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this title, then there shall be credited against the tax imposed by section 401 of this Act the amount of the tax paid under such Title III with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 401 of this Act as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under Title III of this Act with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 301 (b) of the Revenue Act of 1926, as amended by this Act.

(2) For the purposes of paragraph (1), the amount of tax paid for any year under Title III of this Act with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

**SEC. 403. ASSESSMENT, COLLECTION, AND PAYMENT OF TAX.**

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds \$50,000.

**TITLE III—GIFT TAX****SEC. 501. IMPOSITION OF TAX.**

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States. The tax shall not apply to a transfer made on or before the date of the enactment of this Act.

(c) The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom

**ESTATE TAX**

Credits against tax.  
State death taxes excluded.  
Post, p. 272.

Deduction of certain gift taxes allowed.

Limitation.

Maximum credit.

Computation of values.

Assessment, collection, and payment.  
Same as estate tax.

Vol. 44, p. 69.

**GIFT TAX**

Imposition of.

Transfers for calendar year 1932 and thereafter.

Application of tax.

Nonresidents.

Not retroactive.

Not applicable to transfers in trust.

Relinquishment considered a transfer.

"(2) For the purposes of this subdivision the power to alter, amend, or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.

ESTATE TAX AMENDMENTS. Powers to revoke, amend, etc.

Adjustments allowed.

"(3) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of \$5,000, then, to the extent of such excess, such relinquishment or relinquishments shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;"

Relinquishment of power without consideration.

SEC. 402. PRIOR TAXED PROPERTY.

Prior taxed property.

Paragraph (2) of subdivision (a) and paragraph (2) of subdivision (b) of section 303 of the Revenue Act of 1926, as amended, are amended by inserting before the period at the end of the second sentence of each such paragraph a comma and the following: "and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor".

Estate tax deduction granted a decedent for prior taxed property restricted.

Vol. 44, p. 72, amended.

SEC. 403. CITIZENSHIP AND RESIDENCE OF DECEDENTS.

Citizenship and residence of decedents. Provisions of, extended.

(a) Section 303(a) of the Revenue Act of 1926, as amended, is amended by striking out "In the case of a resident" and inserting in lieu thereof "In the case of a citizen or resident of the United States".

Vol. 44, p. 72.

(b) Section 303(b) of such Act, as amended, is amended by striking out "In the case of a nonresident" and inserting in lieu thereof "In the case of a nonresident not a citizen of the United States".

Nonresident not U.S. citizen.

Vol. 44, p. 72.

(c) Section 303(c) of such Act, as amended, is amended by striking out "in the case of a nonresident" and inserting in lieu thereof "in the case of a nonresident not a citizen of the United States".

Vol. 44, p. 72.

(d) Section 303(d) and (e) of such Act, as amended, are amended by striking out the phrase "nonresident decedent" wherever such phrase appears in such subdivisions and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

Vol. 44, p. 74.

(e) Section 304(a) and (b) of such Act, as amended, are amended by striking out "nonresident" wherever such word appears and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

(f) Section 403 of the Revenue Act of 1932 is amended by striking out "resident decedent" and inserting in lieu thereof "citizen or resident of the United States".

Substitution of "citizen or resident of the United States", in 1932 Act.

Vol. 47, p. 243.

Estate tax rates—  
Continued.

“\$557,600 upon net estates of \$2,000,000; and upon net estates in excess of \$2,000,000 and not in excess of \$2,500,000, 38 per centum in addition of such excess.

“\$747,600 upon net estates of \$2,500,000; and upon net estates in excess of \$2,500,000 and not in excess of \$3,000,000, 41 per centum in addition of such excess.

“\$952,600 upon net estates of \$3,000,000; and upon net estates in excess of \$3,000,000 and not in excess of \$3,500,000, 44 per centum in addition of such excess.

“\$1,172,600 upon net estates of \$3,500,000; and upon net estates in excess of \$3,500,000 and not in excess of \$4,000,000, 47 per centum in addition of such excess.

“\$1,407,600 upon net estates of \$4,000,000; and upon net estates in excess of \$4,000,000 and not in excess of \$4,500,000, 50 per centum in addition of such excess.

“\$1,657,600 upon net estates of \$4,500,000; and upon net estates in excess of \$4,500,000 and not in excess of \$5,000,000, 53 per centum in addition of such excess.

“\$1,922,600 upon net estates of \$5,000,000; and upon net estates in excess of \$5,000,000 and not in excess of \$6,000,000, 56 per centum in addition of such excess.

“\$2,482,600 upon net estates of \$6,000,000; and upon net estates in excess of \$6,000,000 and not in excess of \$7,000,000, 59 per centum in addition of such excess.

“\$3,072,600 upon net estates of \$7,000,000; and upon net estates in excess of \$7,000,000 and not in excess of \$8,000,000, 61 per centum in addition of such excess.

“\$3,682,600 upon net estates of \$8,000,000; and upon net estates in excess of \$8,000,000 and not in excess of \$9,000,000, 63 per centum in addition of such excess.

“\$4,312,600 upon net estates of \$9,000,000; and upon net estates in excess of \$9,000,000 and not in excess of \$10,000,000, 65 per centum in addition of such excess.

“\$4,962,600 upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000 and not in excess of \$20,000,000, 67 per centum in addition of such excess.

“\$11,662,600 upon net estates of \$20,000,000; and upon net estates in excess of \$20,000,000 and not in excess of \$50,000,000, 69 per centum in addition of such excess.

“\$32,362,600 upon net estates of \$50,000,000; and upon net estates in excess of \$50,000,000, 70 per centum in addition of such excess.”

Vol. 47, p. 244.

(b) Section 401 (c) of the Revenue Act of 1932 (relating to the exemption for the purposes of the additional estate tax) is amended by striking out “\$50,000” and inserting in lieu thereof “\$40,000”.

Vol. 47, p. 245.

(c) Section 403 of the Revenue Act of 1932, as amended, (relating to the requirement for filing return under such additional estate tax) is amended by striking out “\$50,000” and inserting in lieu thereof “\$40,000”.

Application of amend-  
ments.

(d) The amendments made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

Estate tax—valua-  
tion.

Vol. 44, p. 72; U. S.  
C., p. 1071.

Determination of  
value of gross estate.

#### SEC. 202. ESTATE TAX—VALUATION

(a) Section 302 of the Revenue Act of 1926, as amended, is amended by adding a new subdivision as follows:

“(j) If the executor so elects upon his return (if filed within the time prescribed by law or prescribed by the Commissioner in pursuance of law), the value of the gross estate shall be determined by valuing all the property included therein on the date of the

Credit or refund  
denied if fraud, etc.

(f) **CREDIT OR REFUND DENIED IF FRAUD, ETC.**—No deficiency dividend credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) if the closing agreement, decision of the Board, or judgment contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to failure to file the return under this title within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure to file is due to reasonable cause and not due to willful neglect.

Terms used.

**SEC. 408. MEANING OF TERMS USED.**

Meaning.  
Ante, p. 452.

The terms used in this title shall have the same meaning as when used in Title I.

Administrative provisions.

**SEC. 409. ADMINISTRATIVE PROVISIONS.**

All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I, shall insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title, except that the provisions of section 131 shall not be applicable.

Ante, p. 452.

Improper accumulation  
of surplus.  
Surtax on corporations,  
p. 483.

**SEC. 410. IMPROPER ACCUMULATION OF SURPLUS.**

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

Foreign personal  
holding companies.  
Provisions respect-  
ing, p. 545.

**SEC. 411. FOREIGN PERSONAL HOLDING COMPANIES.**

For provisions relating to foreign personal holding companies and their shareholders, see Supplement P of Title I.

Title II—Estate and  
Gift Taxes.

**TITLE II—ESTATE AND GIFT TAXES**

Estate tax returns.  
44 Stat. 74.

**SEC. 501. ESTATE TAX RETURNS.**

Section 304 (b) of the Revenue Act of 1926, as amended (relating to the amount of gross estate requiring the filing of a return), is amended by striking out "\$100,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 303 (a) (4)".

Returns of additional  
estate tax.

**SEC. 502. RETURNS OF ADDITIONAL ESTATE TAX.**

47 Stat. 245.

Section 403 of the Revenue Act of 1932, as amended, relating to returns of the additional estate tax, is amended by striking out "\$40,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 401 (c)".

Extensions of time  
for payment.

**SEC. 503. EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX.**

44 Stat. 74.  
26 U. S. C. § 422.

Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

When undue hard-  
ship imposed upon  
estate; limitation.

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner

Suspension of run-  
ning of statute of limi-  
tations.  
44 Stat. 77.

**OUT TAXES**

Statutes, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

Filing of jeopardy bond.

(2) **FILING OF JEOPARDY BOND.**—If a bond is filed, as provided in section 514, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

Payment extended.

(3) **PAYMENT EXTENDED.**—If the part of the deficiency the time for payment of which is extended as provided in section 513(i) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

Unpaid jeopardy assessment stayed by bond.

(4) **JEOPARDY ASSESSMENT—PAYMENT STAYED BY BOND.**—If the amount included in the notice and demand from the collector under section 514(j) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

Interest in case of bankruptcy and receiverships.  
*Act, p. 250.*

(5) **INTEREST IN CASE OF BANKRUPTCY AND RECEIVERSHIPS.**—If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 516, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

Penalties.

**SEC. 525. PENALTIES.**

For willful failure to pay tax, make returns, etc.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Willful evasion a felony.

(b) Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Punishment for.

Transferred assets.

**SEC. 526. TRANSFERRED ASSETS.**

Method of collection.

(a) **METHOD OF COLLECTION.**—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

REVENUE ACT OF 1924.  
Claims barred by  
limitation.  
Vol. 33, p. 756; Vol.  
40, pp. 300, 1057.

"(b) Except as provided in section 284 of the Revenue Act of 1926, claims for credit or refund (other than claims in respect of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, or the Revenue Act of 1918) which at the time of the enactment of the Revenue Act of 1921 were barred from allowance by the period of limitation then in existence, shall not be allowed."

Suits, etc., by tax-  
payers.

LIMITATIONS UPON SUITS AND PROCEEDINGS BY THE TAXPAYER

Law reenacted.  
Vol. 43, p. 343.

SEC. 1113. (a) Section 3226 of the Revised Statutes, as amended, is reenacted without change, as follows:

Suits for recovery of  
erroneously collected  
taxes, etc., not allowed  
until claim therefor  
filed.  
R. S., sec. 3226, p.  
618.

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after any such disallowance notify the taxpayer thereof by mail."

If paid under protest,  
etc., allowed.

Time limitation ex-  
tended.

Notification of dis-  
allowance.

Proceedings prior to  
Act of 1924 not affected.

(b) This section shall not affect any proceeding in court instituted prior to the enactment of the Revenue Act of 1924.

Penalties.

PENALTIES

For willful failure to  
pay tax, make returns,  
etc.  
Vol. 43, p. 343, amend-  
ed.

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Punishment for.

For willful failure to  
collect tax, evading  
payment, etc.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Punishment for.

Assisting in prepara-  
tion of fraudulent re-  
turns, etc.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall

(whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

REVENUE ACT OF 1926.

Punishment for.

Additional penalty for refusal to pay, etc., other than income and estate tax.

Exceptions.  
Act, p. 112.  
Distilled spirits.  
R. S., sec. 3256, p. 627.

Property levied upon, to be surrendered to collector.

Liability incurred for refusal.

"Person" liable for acts.

REVISED STATUTES

Revised Statutes.

SEC. 1115. Sections 3164, 3165, 3167, 3172, and 3173 of the Revised Statutes, as amended, are reenacted without change, as follows:

Amendments by Act of 1918 reenacted.

"Sec. 3164. It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

Vol. 40, pp. 1145, 1147.  
Collectors to report violations of revenue laws to district attorney within 30 days.  
R. S., sec. 3164, p. 605.  
Vol. 43, p. 344.

"Sec. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

Revenue officials authorized to administer oaths, etc.  
R. S., sec. 3165, p. 605.  
Vol. 43, p. 344.

"Sec. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of

Divulging information received by revenue officials, unlawful.  
R. S., sec. 3167, p. 606.  
Vol. 43, p. 345.

nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

"Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months, or both."

(c) The amendments made by this section shall be effective with respect to transfers or deliveries made after June 30, 1938.

Condition.

Penalty provision.

Effective date.

**SEC. 712. TAX ON ADMISSIONS TO THEATERS.**

(a) Section 500 (a) (1) of the Revenue Act of 1926, as amended, is amended by inserting before the period at the end of the second sentence the following: ", and except that in the case of tickets or cards of admission to any such spoken play sold at the ticket office of theaters at reduced rates the tax shall be based upon the price for which sold".

(b) The amendment made by subsection (a) shall apply with respect to sales made after June 30, 1938.

Tax on admissions to theaters.  
45 Stat. 91.  
26 U. S. C. § 940 (a)  
(1).  
Tax based on price for which ticket is sold.

Effective date.

**SEC. 713. EXEMPTION OF CERTAIN COOPERATIVE OR NONPROFIT CORPORATIONS OR ASSOCIATIONS FROM ELECTRICAL ENERGY TAX.**

(a) Section 616 (c) of the Revenue Act of 1932, as amended, is further amended by inserting after the word "plants" in the second sentence thereof a comma and the following words: "or to electric and power plants or systems owned and operated by cooperative or nonprofit corporations engaged in rural electrification".

(b) The amendment made by subsection (a) shall apply only to electric energy sold on or after July 1, 1938.

Exemption of certain cooperative or nonprofit corporations, etc., from electrical energy tax.  
47 Stat. 265.

Effective date.

**TITLE V—MISCELLANEOUS PROVISIONS**

**SEC. 801. CLOSING AGREEMENTS AS TO FUTURE TAX LIABILITY.**

Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement".

**SEC. 802. APPROVAL OF CLOSING AGREEMENTS.**

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Under Secretary", and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary".

**SEC. 803. RETURNS AS TO FORMATION, ETC., OF FOREIGN CORPORATIONS.**

(a) **REQUIREMENT.**—Under regulations prescribed by the Commissioner with the approval of the Secretary, any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, after the date of the enactment of this Act, aids, assists, counsels, or advises in, or with respect to, the formation, organiza-

Title V—Miscellaneous Provisions.

Future tax liability.

Authority to execute closing agreement as to.  
45 Stat. 874.

Approval of closing agreements.  
45 Stat. 874.

Returns as to formation, etc., of foreign corporations.

Requirement.



Title-26	Description	Location of Enforcement Regulations
6020	Returns prepared for or executed by Secretary	27 CFR Parts 53, 70
6201	Assessment authority	27 CFR Part 70
6203	Method of assessment	27 CFR Part 70
6212	Notice of deficiency	No Regulation
6213	Restrictions applicable to; deficiencies, petition to Tax Court	No Regulation
6214	Determinations by Tax Court	No Regulation
6215	Assessment of deficiency found by Tax Court	No Regulation
6301	Collection authority	27 CFR Parts 24, 25, 53, 250, 270, 275
6303	Notice and demand for tax	27 CFR Parts 53, 70
6321	Lien for taxes	27 CFR Part 70
6331	Levy and distraint	27 CFR Part 70
6332	Surrender of property subject to levy	27 CFR Part 70
6420	Gasoline used on farms	No Regulation
6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 CFR Part 70, 170, 194, 296
6651	Failure to file tax return or to pay tax	27 CFR Parts 24, 25, 70, 194
6671	Rules for application of assessable penalties	27 CFR Part 70
6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 CFR Part 70
6701	Penalties for adding and abetting understatement of tax liability	27 CFR Part 70
6861	Jeopardy assessments of income, estate, and gift taxes	No Regulation
6902	Provisions of special application to transferees	No Regulation
7201	Attempt to evade or defeat tax	No Regulation
7203	Willful failure to file return, supply information, or pay tax	No Regulation
7206	Fraud and false statements	No Regulation
7207	Fraudulent returns, statements and other documents	27 CFR Part 70
7210	Failure to obey summons	No Regulation
7212	Attempts to interfere with administration of internal revenue laws	27 CFR Parts 170, 270, 275, 290, 295, 296
7342	Penalty for refusal to permit entry, or examination	27 CFR Parts 24, 25, 170, 270, 275, 290, 295, 296
7343	Definition of term "person"	No Regulation
7344	Extended application of penalties relating to officers of Treasury Department	No Regulation
7401	Authorization (judicial proceedings)	27 CFR Part 70
7402	Jurisdiction of district courts	No Regulation
7403	Action to enforce lien or to subject property to payment of tax	27 CFR Part 70
7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulation
7601	Canvass of districts for taxable persons and objects	27 CFR Part 70
7602	Examination of books and witnesses	27 CFR Parts 70, 170, 296
7603	Service of summons	27 CFR Part 70
7604	Enforcement of summons	27 CFR Part 70
7605	Time and place of examination	27 CFR Part 70
7608	Authority of internal revenue enforcement officers	27 CFR Parts 70, 170, 296

## Types of Investigations

9210 (2-22-77)

### Criminal Investigations

9211 (6-8-80)

### General

(1) The investigative jurisdiction of Criminal Investigation extends to any and all alleged or suspected violations of the internal revenue laws that are punishable as crimes with the following exceptions:

(a) Violations relating to alcohol, tobacco, and firearms (Chapters 51-53 of the Internal Revenue Code). Those violations are within the investigative jurisdiction of the Bureau of Alcohol, Tobacco and Firearms.

(b) The following violations within the investigative jurisdiction of the Internal Security Division of Inspection:

1 Conduct violations by IRS personnel (IRC 7214). (See also IRM 9143.4.)

2 Unauthorized disclosure of Federal tax information by Federal or State employees, corporate shareholders, document reproducers, and others (IRC 7213).

3 Unauthorized disclosure or use of certain tax information by persons engaged in the business of preparing or providing services in connection with the preparation of returns (IRC 7216).

(2) Criminal Investigation has investigative jurisdiction over attempts to interfere with the administration of the internal revenue laws by force or threats of force (IRC 7212(a)) when the forcible interference takes place during an armed escort assignment or during an arrest or raid in connection with a matter pending before Criminal Investigation; or when the assistance of Criminal Investigation is requested by the Regional Inspector. In addition, Criminal Investigation will assist Inspection in emergency situations (See also IRM 9123 and IRM 9142.)

(3) Bribery attempts (18 USC 201) incident to raids or arrests executed by or under the direction of Criminal Investigation personnel fall within the investigative jurisdiction of Criminal Investigation, this being an exception to the general rule that attempts to bribe Internal Revenue Service personnel are the investigative responsibility of Inspection. (See also IRM 9123 and IRM 9142.)

(4) Criminal Investigation is also charged with responsibility for seizing forfeitable personal property used or intended for use in violations under the investigative jurisdiction of the Division. (See IRM 9454.) Usually such property

relates to violations or intended violations of the laws applicable to wagering.

9212 (11-8-83)

### Violations Punishable as Crimes Under the Internal Revenue Code

Certain internal revenue law violations that are punishable as crimes are set out in Chapter 75 of the Internal Revenue Code of 1954 together with that maximum penalties for such offenses. The violations that are within the investigative jurisdiction of Criminal Investigation are cited and summarized below:

	IRC
Failure to file form 5713 (International Boycott Report)	999(f)
Evasion of tax in any manner.	7201
Failure to collect or account for and pay over tax;	7202
Failure to file return, pay tax, keep records, or supply information.	7203
Furnishing false statement to employee regarding withheld tax, or failure to furnish statement.	7204
Supplying false withholding information to employer, or failure to supply information.	7205(a)
Making a false certification or affirmation on any statement required by a payor of interest and dividends or making a false certification about backup withholding.	7205(b)
Making and subscribing a false return, statement, or other document under the penalties of perjury.	7206(1)
Aiding or advising the preparation or presentation of a false return affidavit, claim, or other document.	7206(2)
Executing a false bond, permit, or other document, or aiding or advising such an execution.	7206(3)
Removing, depositing, or concealing property subject to tax or levy with intent to evade.	7206(4)
Concealing property, withholding, mustating or falsifying a record, or making a false statement in connection with a compromise or closing agreement.	7206(5)
Delivering or disclosing any list, return, or other document known to be false.	7207
Counterfeiting, mustating, and other offenses relating to tax stamps.	7208
Unauthorized buying, selling, using, etc., of tax stamps and other tax collection devices.	7209
Failure to obey summons.	7210
False statement to a purchaser or lessee relating to amount of tax involved in purchase or lease.	7211
Forcible interference with administration of the internal revenue laws (see IRM 9211 (2)).	7212(a)
Forcible rescue of seized property.	7212(b)
Failure to comply with notice (under Section 7512) to collect withheld income and social security taxes and collected estate taxes and to deposit such taxes in a special bank account.	7215
Failure to obtain license for collection of foreign items (dividends and interest).	7231
Failure to register or false statement by manufacturer or producer of gasoline or lubricating oil.	7232
Failure to furnish information regarding windfall profits tax.	7241
Representation, in connection with a sale or lease, that the retailer's excise tax is excluded from the price.	7261
Failure to pay wagering occupational tax.	7262
Failure to affix stamps on foreign insurance policy with intent to evade tax.	7270
Penalty for offenses relating to certain airline tickets and advertising.	7275

MT 9-275

9212

9213 (6-5-95)

**Crimes Under Title 18, United States Code**

The provisions of Title 18, United States Code, cited and summarized below, are representative of Title 18 violations, which if committed in contravention of the Internal Revenue laws, may be investigated by special agents of Criminal Investigation.

	Section
Aiding, abetting, counseling, commanding, inducing, or procuring the commission of an offense.	2
Receiving, relieving, comforting, or assisting an offender to hinder or prevent his/her apprehension, trial, or punishment.	3
Misprison of felony (failure to disclose and concealment of information about commission of a felony).	4
Assaulting, resisting, or impeding Federal officers or employees.	111
Attempted bribery (see IRM 9123:(1)).	201
Taking from official files papers relating to claims or using papers so taken.	285
Conspiring to defraud the United States with respect to claims.	286
Filing false, fictitious or fraudulent claims upon the United States.	287
Conspiracy to commit an offense against or to defraud the United States.	371
Conspiracy to impede or injure a Federal officer, Power of Courts.	372
Contempts Constituting Crimes	401
Counterfeiting, forging, or falsifying bonds, public record, affidavits, or other writings to defraud the United States, etc.	402
Counterfeiting, forging or falsifying powers of attorney, orders, receipts, or other writings to obtain money from or to defraud the United States, etc.	494
Theft of Government property	495
Making false, fictitious, or fraudulent written or oral statements or representations in a manner within the jurisdiction of a department or agency of the United States.	64
Possessing false writings or documents to enable another to obtain money from the United States.	1001
Killing a Federal officer.	1002
Obstructing or assaulting a duly authorized server of a writ or process of a U.S. Court or of a United States Commissioner.	1114
Influencing or injuring officer, or juror generally	1501
Obstruction of proceedings before departments, agencies, and committees	1503
Obstruction of criminal investigations	1505
Tampering with a witness, victim, or an informant	1510
Retaliating against a witness, victim, or an informant	1512
Perjury.	1513
Procuring another to commit perjury (subornation of perjury).	1621
Making false declarations before a Grand Jury or Court.	1622
Prohibition of illegal gambling businesses	1623
Concealing, removing, or mutilating Government records and reports.	1955
Assaulting, resisting, or interfering with a person making an authorized search or seizure.	2071
Destroying or removing property to prevent its seizure.	2231
Rescuing seized property	2232
	2233

9214 (9-2-83)

**Crimes Under Title 31, United States Code**

(1) Title 31, United States Code, Section 5322(a) provides that whoever willfully violates

any provision of the Code or regulations relating to the filing of an IRS Form 4789, Currency Transaction Report (CTR), Customs Form 4790, Report of International Transportation of Currency or Monetary Instruments (CMIR), and Department of Treasury Form 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR) shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(2) Title 31, United States Code, Section 5322(b) elevates the violation to a felony when the violation is:

(a) Committed in furtherance of the commission of any other violation of Federal Law, or  
 (b) Committed as part of a pattern of illegal activity involving transactions exceeding \$100,000 in any 12 month period. The penalty for violation of Section 5322(b) is a fine of not more than \$500,000 or imprisonment of not more than 5 years, or both.

(3) In investigating violations of Title 31, CID's primary emphasis will be on the reporting requirements involving the failure to file CTRs or FBARs.

(4) However, criminal penalties are also provided for the failure to maintain records. In general, for the records required to be maintained by financial institutions as specified in 562.2 of IRM 9781, Handbook for Special Agents, the criminal penalties are in Title 12, United States Code, Sections 1956 and 1957. Title 12, United States Code, Section 1956, provides that whoever willfully violates any regulation relating to records required to be maintained shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(5) Title 12, United States Code, Section 1957, elevates the violation of failure to maintain records required to a felony, when the violation is committed in furtherance of the commission of any felony violation of Federal law. The penalty for violation of Section 1957 is a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both.

(6) For the failure to maintain certain other records, excluding those in 562.2 of IRM 9781, Handbook for Special Agents, such as exempt lists, Title 31 USC Sections 5322(a) or 5322(b) may be applicable.

(7) See 560 of IRM 9781, Handbook for Special Agents, for guidelines regarding the identification, investigation and processing of cases involving violations of Title 31.

**9215 (10-3-77)**  
**Selection of Cases for Criminal Investigation**

Policy statement P-9-18 contains guidelines for selecting cases to achieve a balanced enforcement program.

**9216 (12-4-80)**  
**Time Limitation on Prosecutions**

(1) The period of time within which criminal proceeding may be instituted in a particular case is governed by the following sections of the statutes:

- (a) Section 6531—Internal Revenue Code of 1954
- (b) Section 3282—Title 18, United States Code

(2) For further treatment of the time limitation on prosecutions see 240 of IRM 9781, Handbook for Special Agents.

**9220 (2-22-77)**  
**Civil Cases**

**9221 (4-2-87)**  
**Civil Penalties**

(1) Some violations of the internal revenue laws that are punishable as crimes also subject the violators to civil penalties and/or ad valorem additions to the tax. Other violations of the internal revenue laws are sanctioned solely by civil penalties, but, in particular instances, the investigation of such violations may be inseparable from the investigation of alleged or suspected criminal acts.

(2) Criminal Investigation is responsible in all completed and substantially completed investigations (prosecution and non-prosecution) to recommend, if appropriate, and support, if recommended, the ad valorem additions to the tax, except those relating to tax estimations, as follows:

- |                       |   |
|-----------------------|---|
| <p>RC<br/>6651(a)</p> | <p>—Delinquency in filing a return—a penalty of from 5% to 25% of the tax due depending upon the duration of the delinquency. Effective for returns due after December 31, 1982, a minimum penalty on an extended failure to file a return of \$100 or 100% of the underpayment, whichever is less.</p> |
| <p>6653(a)</p>        | <p>—Negligence—a penalty of 5% of the underpayment of tax.</p>  |
| <p>6653(b)</p>        | <p>—Fraud—for returns required to be filed after December 31, 1986 (without consideration of extensions), a penalty of 75% of the underpayment which is attributable to fraud and 50%</p>   |

of the interest payable on the underpayment of tax due to fraud, or for returns required to be filed before January 1, 1987 a penalty of 50% of the underpayment of tax and for taxes due after September 3, 1982, 50% of the interest payable on the underpayment of tax due to fraud

6661 —Substantial Understatement of Liability—a penalty equal to 20% of the understatement. Applies if understatement exceeds the greater of 10% of corrected tax or \$5,000 (\$10,000 for corporations). Applies to returns required to be filed after December 31, 1986.

6672 —Failure to collect or to account for and pay over a tax or attempted evasion of such a tax—a penalty of 100% of the tax.

(3) In addition to the above listed penalties, special agents should be alert to violations which may subject the violators to other civil penalties as set out in text 250 and Exhibit 200-2 of IRM 9781, Handbook for Special Agents.

(4) Criminal Investigation will not make a recommendation concerning civil penalties in discontinued investigations. (See also text 638 of IRM 9781, Handbook for Special Agents.)

(5) Service policy with respect to recommending the civil fraud penalty is contained in policy statement P-9-5.

**9222 (10-4-85)**  
**Civil Fraud Coordinator**

(1) The Chief, Criminal Investigation, will select experienced special agents from his/her district to handle requests for advice and assistance in establishing or sustaining the Civil Fraud Penalty. These special agents will be designated as Civil Fraud Coordinators with appropriate notice given to the other functions as to their existence and purpose. The number of agents and time allocated to this activity will depend on the needs within the district. Ordinarily these assignments should be of sufficient duration to enable the Coordinator to establish good working relationships with the other functions.

(2) The Coordinator will participate in basic and refresher training for tax auditors and revenue agents on the detection and documentation of fraud for civil purposes. The Coordinator will also conduct special training sessions in this area as needed and as requested. The Coordinator should participate frequently in Examination, Collection and EP/EO group meet-

ings. These various training sessions and meetings, will supplement existing training courses on fraud awareness and detection by emphasizing the need for adequate documentation. The Coordinator should demonstrate proper preparation of copies and contemporaneous memoranda.

(3) Where a referral has been declined by *Criminal Investigation* and/or an investigation has been discontinued and the referring examiner and group manager have determined there is little likelihood of a re-referral, the Coordinator will confer with the referring examiner and group manager to provide advice and assistance in establishing the Civil Fraud Penalty unless one of the following conditions is present:

(a) Cases where blatant evidence of fraud is present, where penalties will obviously be imposed but which are surveyed or declined due to death of taxpayer, de minimis amount, etc.;

(b) cases returned for civil settlement where taxpayers have been prosecuted and found guilty under IRC 7201; and

(c) cases subjected to complete criminal investigations where no evidence of fraud was found.

(4) The requirement to confer with the Coordinator is optional if one of the conditions outlined above is present.

(5) The Coordinator should, in particular, advise and assist the examiner in establishing and presenting evidence of willfulness. In selected cases, and upon request from the Examination or EP/EO functions, the Coordinator will participate in the civil examination by conducting interviews of the taxpayer or key witnesses, obtaining documents; and taking other investigative steps necessary to establish and document the existence of fraud. However, this role is considered to be primarily advisory in nature with limited investigative involvement. The examiner retains full responsibility for the assertion of the Civil Fraud Penalty. Participation by the Coordinator will ordinarily preclude any further criminal consideration. When the taxpayer is recontacted by Examination function, the examiner will explain to the taxpayer the administrative procedures that will be followed to conclude the examination.

(6) Time spent by the Coordinator in this activity will be reported in Item 28 of Form 5043, *Criminal Investigation—Monthly Activity Report*.

(7) Regional Commissioners will ensure the proper development and assertion of the Civil Fraud Penalty as a viable tool in encouraging voluntary compliance with the tax laws. Through the ARC's, they will effectively monitor and guide Civil Fraud Penalty application and

procedures to ensure that procedures above and in Part IV of the IR Manual are being followed. Utilization of the Civil Fraud Penalty will be included as an item for discussion in district visitations.

9230 (8-13-79)

#### Guidelines for Internal Revenue Service—Department of Justice Cooperation

9231 (8-13-79)

#### Purpose

This section delineates responsibilities, provides for coordination and states the general procedures which are to be followed in investigations and examinations conducted jointly by the Department of Justice (DOJ), including the Office of United States Attorneys, and the Internal Revenue Service (IRS). It establishes guidelines which are compatible with IRS policy of fair and effective administration and enforcement of tax laws and the objective of DOJ to give priority to the investigations and prosecution of organized criminal activity, corruption in Government, narcotics trafficking and all forms of white-collar crimes.

9232 (8-13-79)

#### Background

(1) On January 8, 1976, the Commissioner of Internal Revenue and the Deputy Attorney General signed a document (see Exhibit 9230-1) establishing guidelines regarding investigations conducted jointly by DOJ and IRS. The document also establishes a Coordinating Committee to resolve any disagreements that may arise. Efforts will be made to resolve differences at the district, regional or National Office levels before approval will be given to the submission of an issue to the Coordinating Committee. Provisions are made for continued cooperation between IRS and DOJ on Strike Force matters.

(2) The advice of Chief Counsel Attorneys will be sought, when appropriate, to assist in resolving any disagreements with Department of Justice.

9233 (8-13-79)

#### Supervision of IRS Employees

(1) IRS personnel will be assigned and supervised by IRS managers and IRS will retain complete control over its own employees and operations.

(a) The investigative activities of IRS personnel working on a joint investigation with DOJ will be coordinated by the DOJ/US Attorney in charge of the investigation.

(b) The DOJ/US Attorney will not give any directions to IRS agents. Any directions desired will be communicated to the IRS group manager in charge of the investigation.

(c) IRS will participate in the planning, and will contribute to group strategy and operations in investigations conducted in its area of responsibility.

(2) After an IRS/DOJ joint investigation has been approved by the Examination function and the Chief, Criminal Investigation Division, guidelines will be developed by the IRS participants (Examination and Criminal Investigation) prior to commencing any investigative activity. Comments and suggestions will be solicited from the appropriate DOJ/US Attorney.

(a) The group manager in charge of the IRS/DOJ investigation will review the guidelines, and upon his/her approval, will be responsible for their implementation.

(b) The guidelines must set out the investigative steps which are proposed to be taken during the conduct of the investigation.

(3) Once the guidelines for the IRS/DOJ joint investigation have been approved, IRS agents will conduct operations within the framework of those guidelines unless they are modified in accordance with (b) below. Guidelines involving information gathering will be approved in accordance with IRM 9390.

(a) Meetings between the DOJ/US Attorney and IRS management will be held on an as-needed basis to determine adherence to, and progress on, the guidelines.

(b) Any DOJ requests to deviate from the guidelines, will be cleared by the IRS Examination and/or Criminal Investigation group manager, as appropriate.

(4) The IRS managers shall control the amount of IRS resources assigned to any particular case and shall control, through the approval of the guidelines and otherwise as necessary, and will be responsible for the investigative techniques and approach used by IRS personnel in accomplishing the investigation.

9234 (8-13-79)

#### Selection of Cases for Investigation

(1) Consistent with its compliance goals and criteria, IRS will cooperate fully with DOJ/US Attorneys in criminal tax investigations where there exist potential criminal or civil tax violations.

(2) In selecting cases for investigation and possible prosecution, DOJ and IRS will:

(a) recognize that appropriate priority should be given to investigations involving organized crime, major narcotics trafficking, public corruption and white-collar crimes;

(b) consider the limitations upon their resources including the availability of personnel;

(c) recognize the IRS policy of balanced enforcement and administration (see policy statement P-1-1);

(d) conform to existing disclosure provisions; and

(e) give full consideration to the standards of P-4-84 to determine when the Service will assert civil liability.

(3) Investigations and examinations will be undertaken in specific areas consistent with the compliance goals and policies of the IRS (i.e., P-9-18, P-4-21). Final authority concerning taxpayers to be investigated by IRS will be vested in IRS.

9235 (8-13-79)

#### Conduct of Investigations

(1) IRS and DOJ recognize that it is frequently impossible to determine at the outset of an investigation which types of charges, suitable for prosecution, will result from the investigations. Consequently, no premature determination regarding the eventual potential of cases under investigation shall be made by either IRS or DOJ.

(2) Any IRS/DOJ joint investigation, whether originating in DOJ or IRS, will be periodically evaluated by the Chief, Criminal Investigation Division, in the district having jurisdiction over the matters being investigated.

(3) The Examination function will participate in the evaluation of any IRS/DOJ joint investigation requiring the expenditure of Examination resources.

(4) The District Director will be responsible to assure that in each IRS/DOJ joint investigation:

(a) information gathering, when necessary, is conducted in accordance with IRS guidelines;

(b) guidelines are developed, implemented and, to the extent necessary, updated so as to make most effective use of IRS resources;

(c) meetings are held between IRS and DOJ so as to resolve disagreements and ensure cooperation in the achievement of the IRS/DOJ joint investigative goals; and

(d) an IRS management employee is assigned to act as the point of contact with DOJ on each approved IRS/DOJ joint investigation.

(5) During the course of an IRS/DOJ joint investigation it may be concluded that it is not reasonable to continue to develop either a civil or criminal tax case. If this occurs IRS will normally withdraw its personnel from the case.

MT 9-309

(a) Normally IRS will not further develop any information with respect to such case except:

- 1 with appropriate supervisory review; and
- 2 where it is clear that any further development necessary can only be accomplished by IRS personnel.

(b) However, in a previously approved investigation, the District Director may authorize IRS personnel to be made available for trial preparation in a non-tax offense even though the tax investigation has been discontinued. Where additional disclosure authorization is required or it is anticipated that IRS personnel may be requested to testify at a trial, approval must be secured in accordance with Delegation Order No. 156.

(c) Such time shall be carefully monitored by District management to assure there is no interference with the availability of resources for tax-related investigations.

(6) At the time the IRS/DOJ joint investigation is approved, the guidelines will list the principal taxpayers to be investigated or examined. As the investigation progresses additional taxpayers will be selected by DOJ or IRS in the following manner:

(a) proposed selection of taxpayers for inclusion as additional principal taxpayers in an investigation will be reviewed by the Chief, Criminal Investigation Division and the Examination function;

(b) approval by both IRS and DOJ must be obtained prior to initiating an investigation on a taxpayer as a principal;

(c) related cases may be opened independently by the IRS; and

(d) discussions will be held with the coordinating DOJ/US Attorney prior to the closing of unresolved joint cases. Related cases, initiated by the IRS, may be closed without prior discussion.

(7) IRS personnel will ensure that the disclosure of any information to the DOJ/US Attorney is consistent with the requirements of disclosure statutes and regulations.

(8) All special agents' reports recommending prosecution must be processed according to the procedures in IRM 9600.

#### 9236 (8-31-87)

#### Coordinating Committee

(1) In accordance with Section IV of the Agreement, a Coordinating Committee has been established to jointly monitor operations pursuant to this Agreement and to reconcile

any differences that cannot be resolved at the district, region, or National Office.

(2) The District Director (IRS) will make every effort to resolve any disagreements with the DOJ/US Attorney in the event that he/she cannot.

(a) the District Director will prepare a Statement of Disagreement setting forth points upon which agreement cannot be reached.

(b) the District Director will forward a copy of the Statement of Disagreement to the DOJ/US Attorney involved, asking for any comments he/she wishes to make and advising him/her that the Statement of Disagreement will be forwarded to the Regional Commissioner 10 working days from the date of the Statement;

(c) the District Director will forward the Statement of Disagreement and any comments received from the DOJ/US Attorney to the Regional Commissioner 10 working days from the date of the Statement;

(d) the Regional Commissioner, if his/her efforts fail to resolve the disagreement, will forward the Statement to the Assistant Commissioner (Criminal Investigation);

(e) the Assistant Commissioner (Criminal Investigation) in consultation with the Deputy Chief Counsel (Management and Operations) will attempt to resolve the disagreement with DOJ. If that fails, the Statement of Disagreement with such additional comments as may be appropriate will be forwarded through the Deputy Commissioner (Operations) to the Senior Deputy Commissioner for his comments and then to the Commissioner, who will determine whether or not to refer the matter to the Coordinating Committee. If it is determined that the matter should not be referred to the Coordinating Committee, it will be returned to the District Director with instructions as to how the disagreement will be resolved.

#### 9237 (8-13-79)

#### Participation in Strike Force

Guidelines for IRS participation in Strike Forces are contained in IRM 9418.

#### 9238 (8-13-79)

#### Assisting Grand Juries

Procedures pertaining to the relationship between the IRS and Federal grand juries are contained in IRM 9267.

#### 9239 (8-13-79)

#### Reporting Instructions

Criminal Investigation Division reporting procedures are contained in IRM 9570, Case Management and Time Reporting System Handbook (Items B.(23) and (24) of Exhibit 400-1).

MT 9-309

[The next page is 28,043-7.]

Criminal Investigation Division

Room 7112, 550 Main St.  
Cincinnati, OH 45202

Person to Contact:  
ARTHUR G. WILLIAMS  
Telephone Number:  
(513) 263-  
Refer Reply to:  
CI:21  
Date: MAR 03 1999

CERTIFIED MAIL  
Return Receipt Requested

Dear Mr. ....

You are no longer the subject of a criminal investigation by our office regarding your federal tax liabilities for the year(s) 1993 through 1996. However, this does not preclude re-entry by the Criminal Investigation Division into this investigation.

The matter is presently in the Examination Division for further consideration. If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

*Richard A. Patton* <sup>E</sup> For

ALVIN PATTON  
Chief, Criminal Investigation



Department of the Treasury  
Internal Revenue Service  
P.O. BOX 145566  
CINCINNATI, OHIO 45214

Date:  
APR. 27, 2000

Taxpayer Identifying Number:  
C 01

Contact Telephone Number:  
TOLL FREE: 1-800-829-7650  
MON. THRU FRI. 8:00AM TO 8:00PM

DEST

Re:

CINCINNATI OH

4520

### We Released The Taxpayer Levy

We mailed you a NOTICE OF LEVY<sup>4</sup> requiring that you turn over property belonging to the taxpayer named above as payment of taxes owed.

We have now RELEASED FROM LEVY all property or rights to property belonging to the above taxpayer. You are no longer required to turn over under this levy any money, property, or rights to property belonging to the taxpayer.

Thank you for your cooperation.



Chief, Automated Collection Branch

**THE CODE OF FEDERAL REGULATIONS**  
OF THE  
**UNITED STATES OF AMERICA**

*Having General Applicability and Legal Effect  
in Force June 1, 1938*



**FIRST EDITION**

Published by the Division of the Federal Register, The National  
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Act as Amended June 19, 1937

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**TITLE 26—INTERNAL REVENUE**  
**Chapter I—(Parts 1-137)**

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1939

COMMISSIONERS OF INTERNAL REVENUE SINCE THE  
ORGANIZATION OF THE INTERNAL REVENUE OFFICE  
IN 1862.

GEORGE S. BOUTWELL, of Massachusetts, from July 17, 1862, to March 3, 1863, both dates inclusive.

JOSEPH J. LEWIS, of Pennsylvania, from March 18, 1863, to June 30, 1865.

WILLIAM ORTON, of New York, from July 1, 1865, to October 31, 1865.

EDWARD A. ROLLINS, of New Hampshire, from November 1, 1865, to March 1, 1869.

COLUMBUS DELANO,<sup>1</sup> of Ohio, from March 11, 1869, to January 2, 1871.

John W. Douglass, of Pennsylvania, was Acting Commissioner from November 1, 1870, to January 2, 1871.

ALFRED PLEASANTON, of New York, from January 3, 1871, to August 8, 1871.

JOHN W. DOUGLASS, of Pennsylvania, from August 9, 1871, to May 14, 1875.

DANIEL D. PRATT, of Indiana, from May 15, 1875, to July 31, 1876.

GREEN B. RAUM, of Illinois, from August 2, 1876, to April 30, 1883.

Henry C. Rogers, of Pennsylvania, Acting Commissioner from May 1883, to May 10, 1883.

John J. Knox, of Minnesota, Acting Commissioner from May 11, 1883, to May 20, 1883.

WALTER EVANS, of Kentucky, from May 21, 1883, to March 19, 1885.

JOSEPH S. MILLER, of West Virginia, from March 20, 1885, to March 20, 1889.

JOHN W. MASON, of West Virginia, from March 21, 1889, to April 18, 1893.

JOSEPH S. MILLER, of West Virginia, from April 19, 1893, to November 26, 1893.

WILLIAM ST. JOHN FORMAN, of Illinois, from November 27, 1896, to December 31, 1897.

NATHAN BAY SCOTT, of West Virginia, from January 1, 1898, to February 2, 1899.

GEORGE W. WILSON, of Ohio, from March 1, 1899, to November 27, 1900.

Robt. Williams, Jr., of Ohio, Acting Commissioner from November 27, 1900, to December 19, 1900.

JOHN W. YERKES, of Kentucky, from December 20, 1900, to April 30, 1907.

JOHN G. CAPERS, of South Carolina, from June 5, 1907, to August 31, 1909.

ROYAL E. CABELL, of Virginia, from September 1, 1909, to April 27, 1913.

WILLIAM H. OSBORN, of North Carolina, from April 28, 1913, to September 2, 1917.

DANIEL C. ROPER, of South Carolina, from September 26, 1917, to March 31, 1920.

WILLIAM M. WILLIAMS, of Alabama, from April 1, 1920.

<sup>1</sup>Mr. Delano was appointed and commissioned Secretary of the Interior November 1870. He did not resign the office of Commissioner of Internal Revenue, and therefore became the legal holder of two offices, Commissioner of Internal Revenue and Secretary of the Interior, as he might legally do, for the duties of the two offices are distinct and compatible. (Converse v. United States, 21 How., 468; United States v. Saunders, 120 U. S., 126.)

He continued to hold the office of Commissioner of Internal Revenue until his successor was appointed and qualified, but was absent from the internal-revenue office and discharged the duties and received the salary of the office of Secretary of the Interior at that office only.

Deputy Commissioner Douglass was Acting Commissioner of Internal Revenue in the absence of Commissioner Delano (15 Stat., 168), and continued to be so until Alfred Pleasanton was commissioned as Commissioner of Internal Revenue, January 2, 1871.

## INTERNAL REVENUE LEGISLATION.

The Revised Statutes were compiled under an act of June 27, 1860 (12 Stat., 74).

A list of acts respecting internal-revenue duties, from the first act (act of March 3, 1791) to April 28, 1828, is published in United States Statutes at Large, Volume 1.

### ACTS OF CONGRESS RELATING TO INTERNAL REVENUE ENACTED SINCE JULY 4, 1861,<sup>1</sup> AND BEFORE DECEMBER, 1873.

[Not including private acts, nor appropriation acts passed prior to the enactment of the Revised Statutes, June 22, 1874.]

#### REVISED STATUTES, TITLE XXXV, SECTIONS 3140-5465.

No reference can be had to the original statutes to control the construction of any section of the Revised Statutes when its meaning is plain, but where there is a substantial doubt as to the meaning of the language used in the revision the old law is a valuable source of information. (United States v. Bowen, 100 U. S., 508, 513; United States v. Lacher, 134 U. S., 624.)

In construing any part of the Revised Statutes it is admissible and often necessary to recur to its connection in the act of which it was originally a part. (United States v. Hirsch, 100 U. S., 35.)

In case of ambiguous language in the Revised Statutes or uncertainty as to the true construction to be given to the words of any section, previous acts on the same subject may be referred to and examined for light on the object and intent of Congress as shown by the course of legislation, in the same manner as statutes in pari materia relating to the same subject may always be taken, compared, and construed together. (Wright v. United States, 1 Ct. Cls., 87. See also United States v. Claffin, 97 U. S., 546, and opinion of First Comptroller Porter in Kansas claim for 5 per cent net proceeds of public lands, 1 Lawrence Dec., 43.)

No inference or presumption of a legislative construction is to be drawn from the reason of the title under which any particular section is placed. (See 5600, R. S.)

An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes, approved August 5, 1862 (12 Stat., 292.) See act June 7, 1862 (12 Stat., 422).

Direct tax and income. The act of March 2, 1861 (26 Stat., 822), authorized the return to the States of the direct tax collected.

An act to provide internal revenue to support the Government and to pay interest on the public debt, approved July 1, 1862 (12 Stat., 432).

Office of Internal Revenue created.

*Income tax.*—Under this act the tax was 3 per cent on incomes over \$600 and not over \$10,000; over \$10,000, 5 per cent. Act of March 3, 1865, over \$600 and not over \$5,000, 5 per cent; over \$5,000, 10 per cent on excess over \$5,000. Act of March 2, 1867, over \$1,000, 5 per cent; Act of July 14, 1870, over \$2,000, 24 per cent. Income tax expired by limitation December 31, 1871. No income tax was collected under the act of June 30, 1864, as it was amended by the act of March 3, 1865, before it was collectible.

Imposed tax on cotton.

<sup>1</sup>On this date Congress convened in its first (extraordinary) session after the commencement of the War of the Rebellion, at which session was commenced the legislation which has since produced the present system of internal revenue taxation.

TREASURY DEPARTMENT  
BUREAU OF INTERNAL REVENUE

# INTERNAL REVENUE LAWS

IN FORCE MAY 1, 1920

WITH AN APPENDIX  
CONTAINING LAWS OF A GENERAL NATURE AND  
MISCELLANEOUS PROVISIONS APPLICABLE  
TO THE ADMINISTRATION OF THE  
INTERNAL-REVENUE LAWS

COMPILED UNDER THE DIRECTION OF  
COMMISSIONER OF INTERNAL REVENUE

COMPILATION OF 1920



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1920

## INTRODUCTION.

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This compilation contains the internal revenue laws in force March 1, 1920.

The last compilation was published in 1911. Since that date many changes have been made in the law and new legislation enacted, rendering much of the matter contained in that compilation obsolete and making a new compilation very desirable.

The most important measures relating to internal revenue passed since the last compilation was issued are as follows:

I. Act of October 3, 1913 (38 Stat., 166), income tax. Superseded by act of September 8, 1916 (39 Stat., 756).

II. Acts of January 17, 1914 (38 Stat., 277), and December 17, 1914 (38 Stat., 785), opium.

III. Act of October 22, 1914 (38 Stat., 745), emergency revenue act.

IV. Act of August 11, 1916 (39 Stat., 476), cotton futures.

V. Act of September 8, 1916 (39 Stat., 756), entitled "An act to increase the revenue, and for other purposes," effective September 9, 1916, which repealed the emergency revenue act of October 22, 1914, and joint resolution of December 17, 1915, except sections three and four (special taxes), which remained in force until January 1, 1917, amended the income tax law by increasing the tax and modifying some of the minor and administrative measures without disturbing the fundamental features of the previous law. This act also imposed an estate tax, a munition manufacturer's tax, and other taxes.

VI. Act of March 3, 1917 (39 Stat., 1000), entitled "An act to provide increased revenue," etc., which imposed an excess profits tax and an estate tax, and provided for a return of dividends.

VII. Act of August 10, 1917 (40 Stat., 276, 282), forbidding use of foods, foodstuffs, etc., in production of distilled spirits for beverage purposes.

VIII. Act of October 3, 1917 (40 Stat., 300), war-revenue act. This was an act to provide revenue to defray war expenses and for other purposes, taking effect October 4, 1917, except as otherwise provided, and increasing the income tax, tax on distilled spirits and other articles, and imposing many new taxes.

IX. Act of November 21, 1918 (40 Stat., 1046), making sales of distilled spirits for beverage purposes until end of war unlawful.

X. Act of February 24, 1919 (40 Stat., 1057), entitled "An act to provide revenue, and for other purposes," which imposed an income tax, war-profits and excess-profits tax, estate tax, tax on transportation and other facilities, on insurance, on beverages, on cigars, tobacco, and manufactures thereof, on admissions and dues, an excise tax, special tax on occupations, stamp taxes, and a tax on employment of child labor.

XI. Act of October 28, 1919, known as the "National Prohibition Act," which prohibits intoxicating beverages, regulates the manufac-

ture, etc., of high-proof spirits for other than beverage purposes and insures an ample supply of alcohol and promotes its use for certain purposes.

The body of this work consists of Title XXXV of the Revised Statutes, with amendments, and subsequent acts incorporated in their appropriate places, the obsolete and repealed sections being omitted, except where the repealing acts provide that repealed sections shall remain in force for administrative purposes.

The references, in previous compilations, to decisions of the courts and the opinions of the Attorney General, and of this office, bearing upon the construction of the sections which they follow, and explanatory thereof, are retained where applicable, with additions, as are also the references made in notes at the close of sections to other sections of the law relating to the same matter or which modify or affect the sections which they follow.

The plan adopted in previous compilations in the arrangement of the appendix—viz, that of grouping the sections and acts relating to the same subject, instead of preserving the sequence according to the enumeration in the Revised Statutes—is followed in the present compilation.

The publication of internal-revenue decisions and circulars commencing January 1, 1898, have been published in Treasury Decisions weekly by the Treasury Department (T. D. 18758).

WM. M. WILLIAMS,  
*Commissioner of Internal Revenue.*

## CONSTITUTIONAL PROVISIONS REGARDING TAXATION.

*Art. 1. Sec. 2. Cl. 3:* " \* \* \* direct taxes shall be apportioned among the several States \* \* \* according to their respective numbers \* \* \* "

*Art. 1. Sec. 8. Cl. 1:* "The congress shall have power to lay and collect taxes, duties, imposts, and excises \* \* \* ; but all duties, imposts, and excises shall be uniform throughout the United States."

*Art. 1. Sec. 9. Cl. 1:* "No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken."

*Art. 1. Sec. 9. Cl. 2:* "No tax or duty shall be laid on articles exported from any State."

*Art. 1. Sec. 10. Cl. 2:* "No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

*Am. Art. 16:* "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

*Am. Art. 18:* "Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

"Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

## POWER OF CONGRESS.

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States: but all duties, imposts, and excises shall be uniform throughout the United States. (Constitution of the United States, art. 1, sec. 8; *McGuire v. Commonwealth*, 3 Wall., 387; *Pervear v. Commonwealth*, 5 Wall., 533; *Collector v. Day*, 11 Wall., 113, 13 Int. Rev. Rec., 141; *United States v. Singer*, 15 Wall., 111, 17 Int. Rev. Rec., 9; *Scholey v. Rew*, 23 Wall., 331.)



A general power is given to Congress to lay and collect taxes of every kind or nature without any restraint, except only on exports; but two rules are prescribed for their government, namely, uniformity and apportionment. Three kinds of taxes, to wit, duties, imposts, and excises by the first rule, and capitation, or other direct taxes, by the second rule. (*Hyllton v. United States*, 3 Dall., 171-173.)

The power of Congress to tax is a very extensive power. It is given in the Constitution with only one exception, and only two qualifications. Congress can not tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. (*License Tax Cases*, 5 Wall., 463, 6 Int. Rev. Rec., 36.)

Subject to the limitations in the Constitution the taxing power of Congress extends to all usual objects of taxation. (*Knowlton v. Moore* (1900), 178 U. S., 41; T. D. 129.)

The authority conferred upon Congress by the Constitution to lay and collect taxes, duties, imposts, and excises is exhaustive, and embraces every conceivable power of taxation. (*Brushaber v. Union Pacific R. R. Co.*, 240 U. S., 1; T. D. 2290.)

#### APPORTIONMENT AND UNIFORMITY OF TAXES.

Direct taxes must be apportioned, while indirect taxes must be uniform throughout the United States. (*Income Tax Cases*, 157 U. S., 429; 158 Id., 601; *Nicol v. Ames*, 173 U. S., 509.)

A tax on bank circulation is not a direct tax, and may be laid without apportionment. (*Springer v. United States*, 102 U. S., 586; 27 Int. Rev. Rec., 78; *Yeazie Bank v. Fenn*, 8 Wall., 533, 10 Int. Rev. Rec., 195.)

A tax upon the business of an insurance company is not a direct tax, but a duty or excise. (*Pacific Insurance Company v. Soule*, 7 Wall., 433.)

The tax imposed by the act of June 13, 1898 (war-revenue act), on sugar refining companies was not a direct tax but a "special excise tax." (*Spreckles Sugar Refining Co. v. McClain*, 192 U. S., 397; T. D. 760.)

The uniformity clause of the Constitution relates only to geographical uniformity. (*Head Money Cases*, 112 U. S., 580.)

The corporation excise tax provision of the act of August 5, 1909, is constitutional. The tax is not a direct tax, but an impost or excise which Congress has power to impose. (*Flint v. Stone-Tracy Company*, 220 U. S., 107; T. D. 1685.)

The income tax act of October 3, 1913, declared constitutional; it does not violate the rules of apportionment and uniformity. (*Brushaber v. Union Pacific R. R. Co.*, 240 U. S., 1; T. D. 2290.)

#### POWERS AS BETWEEN UNITED STATES AND A STATE.

No State court can by injunction or otherwise prevent Federal officers from collecting Federal taxes. The Government of the United States within its sphere is independent of State action. (*Keely v. Sanders*, 99 U. S., 443.)

The same principle which denies to a State power to raise a revenue by taxation on Federal property, or sources of revenue, or means of carrying on its duties, forbids taxation of State revenue for Federal purposes. (12 Op. Atty. Gen., 282; *Collector v. Day*, 11 Wall., 113; *Ambrosini v. United States*, 187 U. S., 1; T. D. 593.)

As the States can not tax the powers, the operations, or the property of the United States, nor the means which they employ to carry their powers into execution, so it has been held the United States have no power under the Constitution to tax either the instrumentalities or the property of a State. (*Pollock v. Trust Co.*, 157 U. S., 581.)

A municipal corporation is a portion of the sovereign power of the State, and is not subject to taxation by Congress upon its municipal revenues. (*United States v. Railroad Co.*, 17 Wall., 322.)

The exemption of State agencies does not extend to those used by the State in carrying on an ordinary private business. (*South Carolina v. United States*, 199 U. S., 437; T. D. 961.)

#### CONSTRUCTION OF STATUTES.

*Intention:* In construing statutes the fundamental rule is to get at the intention of the legislature. (*In re Matthews*, 109 Fed., 603.)

Legislative intention is the guide to true judicial interpretation. (*United States v. 100 Barrels of Spirits*, 12 Int. Rev. Rec., 153.)

A well-settled rule of interpretation is that a legislative act is to be interpreted according to the intention of the legislature apparent upon its face. (*Wilkinson v. Deland*, 2 Pet., 627; 22 Op. Atty. Gen., 363.)

The intention must be found from the language used. (*Merritt v. Welsh*, 104 U. S., 694.)

It is the duty of the court to study the whole statute, its policy, its spirit, its purpose, its language, and, giving to the words used their obvious and natural import, to read the act with these aids in such way as will best effectuate the intention of the legislature. (*United States v. 100 Barrels Spirits*, 12 Int. Rev. Rec., 151.)

*Liberal or strict construction.*—Revenue laws are not, like penal acts, to be construed strictly in favor of the defendants. They are rather to be regarded as remedial in their character, passed to promote the public good, and should be so construed as to carry out the intention of the legislature in passing them. (*Cliquot's Champagne*, 3 Wall., 114; 4 Int. Rev. Rec., 58; *United States v. 28 Casks of Wine*, 7 Int. Rev. Rec., 4; *United States v. 36 Barrels of High Wines*, 12 Id., 40; *Fed. Cas. No. 16468*; 7 Blatch., 459; *United States v. 100 Barrels of Spirits*, 12 Id., 153; *United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

As a general rule the construction of these statutes must be such as is most favorable to their enforcement. There is no liberal interpretation in favor of the individual to be indulged in. (18 Op. Atty. Gen., 246; 31 Int. Rev. Rec., 246.) Revenue laws are to be construed liberally to carry out the purposes of their enactment (*Smythe v. Fiske*, 23 Wall., 380; *Taylor v. United States*, 3 How., 197), and the rule of construction applicable to statutes generally, that what is implied in them is as much a part of the enactment as what is expressed, holds in regard to them. (*United States v. Hodson* (1870), 10 Wall., 395; 12 Int. Rev. Rec., 213.)

They should be construed with reasonable fairness to the citizen. (United States v. Distilled Spirits, 10 Blatch., 428.)

Statutes should receive a sensible construction, such as will effectuate the legislative intention, and avoid, if possible, an unjust or absurd construction. (In re Chapman, 166 U. S., 661.)

The laws providing for forfeiture by violators of revenue laws are not to be governed by the rule of strict construction applied to penal statutes in general, but are to have a reasonable construction. (United States v. 246½ Pounds Tobacco, 103 Fed., 791.)

Statutes are to receive a reasonable construction, and doubtful words and phrases are to be construed, if possible, so as not to produce mischievous results. But when the words are plain and unambiguous, there is no room for construction, and nothing is left for the court but to give them their full effect. (The Samuel E. Spring (1886), 27 Fed., 776.)

Laws of doubtful or double meaning should not be too harshly construed. (United States v. 1,412 Gallons of Distilled Spirits, 17 Int. Rev. Rec., 86.)

There is no reason requiring a statute imposing special internal-revenue taxes to be construed liberally in favor of the Government, but it should be construed fairly and judicially with reference to both parties. (De Bary v. Souer, 101 Fed., 425.)

Revenue and duty laws are not in the sense of the law penal acts, and are not, therefore, to be construed strictly. Nor are they, on the other hand, remedial, to be construed with extraordinary liberality, but are to be construed according to the true import and meaning of their terms, and legislative intention is the only guide of interpretation. (United States v. Breed, Fed. Cas. No. 1222; 1 Sumner, 159; United States v. Thompson, 189 Fed., 939.)

In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. Doubts are resolved against the Government.—(Gould v. Gould, 245 U. S., 151.)

The rule that the internal-revenue law should be strictly construed in favor of exemption is but a rule of construction, which yields when the intent of the statute is manifest. (In re Hawley, 220 Fed. 372.)

Where income tax law is doubtful, doubt should be resolved in favor of taxpayer against the Government. (Miller v. Gearin, 258 Fed., 225.)

*Meaning of language:* The words of the statute are to be taken in the sense in which they will be understood by that public in which they are to take effect. Science and skill are not required in their interpretation, except where scientific or technical terms are used. The liability of an instrument to stamp duty, as well as the amount of such duty, is determined by the form and face of the instrument, and can not be affected by proof of facts outside of the instrument itself. (United States v. Isham, 17 Wall., 496; 19 Int. Rev. Rec., 84.)

Punctuation no part of the statute. (Hammock v. Loan and Trust Company, 105 U. S., 77, 84, 85; 28 Op. Atty. Gen., 537.)

Punctuation not being part of a statute, repunctuation may be made if necessary to avoid absurd and incongruous results. (T. D.

Courts are not at liberty, by construction or legal fiction, to include subjects of taxation not within the terms of the law. (United States v. Watts, 1 Bond, 580; 1 Int. Rev. Rec., 17.)

Duties are never imposed on the citizens upon vague or doubtful interpretations. (Hartranft v. Weigmann, 121 U. S., 609, and cases there cited.)

*Extrinsic aids:* Words spoken by members in debate, or the motive of members, not to be considered in construing statutes: but courts in construing a statute may, with propriety, recur to the history of the times when it was passed. (United States v. Union Pacific Railroad Company, 91 U. S., 72-79.)

Debates in Congress as sources of information for construction of statutes. (27 Op. Atty. Gen., 68.)

The courts may look to the history of the legislation upon the subject of which the statute treats, and the history of the times in which it was enacted, as well as the general history of the country, to determine the purpose that the Government sought to accomplish. (Church of the Holy Trinity v. United States, 143 U. S., 457.)

In case of ambiguity in a statute contemporaneous and uniform executive construction is regarded as decisive. (Brown v. United States, 113 U. S., 568; also decisions cited by Attorney General in letter to Secretary of Treasury, Nov. 17, 1885, 31 Int. Rev. Rec., 382; Nunn v. Gerst Brewing Co., 99 Fed., 941.)

Where the language of a series of statutes is dubious, and open to different interpretations, the construction put upon them by the executive department charged with their execution has great and generally controlling force with the court. (St. Paul, Minneapolis, etc., Railway Co. v. Phelps, 137 U. S., 528; see 19 Op. Atty. Gen., 177.)

A construction of a doubtful or ambiguous statute by the executive department charged with the execution, in order to be binding upon the courts, must be long continued and unbroken. (Merritt v. Cameron, 137 U. S., 542.)

It is a rule well established that the construction given to a statute by those charged with the duty of executing it will be given great weight by the courts if the true construction be doubtful (United States v. Hill, 120 U. S., 169, and cases cited, p. 182): but this rule has no application where the statute is not ambiguous or where it will not bear the interpretation put upon it by the executive officers. (Swift Company v. United States, 105 U. S., 691, 695; United States v. Graham, 110 U. S., 219; United States v. Tanner, 147 U. S., 661; United States v. Alger, 152 U. S., 384, 397.)

A long continued and uniform interpretation, put by the executive and legislative departments of the Government, upon a clause in the Constitution should be followed by the judicial department unless such interpretation is manifestly contrary to its letter or spirit. (Downes v. Bidwell, 182 U. S., 244.)

A uniform construction by the department, put upon a doubtful statute, has great weight with the court in construing it, and, when the practice has been followed for a long time, the court will accept the department's interpretation as the proper one. (United States v. Twitchell Co., 184 Fed., 526.)

While an act of Congress must be accepted for the purpose of interpretation in the form in which it was finally passed, and can not

be altered or amended to conform to the meaning given it by individual members who advocated its passage, or by a committee which may have discussed it in a report, such expressions of opinion are entitled to weight in construing the law. (*Penn. Mut. Life Ins. Co. v. Lederer*, 247 Fed. 559; reversed on another point by 258 Fed. 81.)

*Construction with reference to other laws:* Statutes in pari materia are to be construed together, and repeals by implication are not favored if the acts can reasonably stand together. (*Harrington's Distilled Spirits*, 11 Wall., 356, 13 Int. Rev. Rec., 193; *United States v. 100 Barrels of Spirits*, 12 Id., 153; *United States v. Cook County National Bank*, 25 Id., 266.)

Internal-revenue acts should be interpreted in harmony with the tariff legislation of the country. (*Taylor v. Trent* (1907), 153 Fed., 656.)

It is a settled rule that where there are two consistent acts relating to the same subject, effect is to be given to both of them. (*Chicago, etc. v. United States*, 127 U. S., 406; *Landram v. United States*, 118 U. S., 81; 32 Int. Rev. Rec., 151.)

General laws relating to internal revenue not affected by subsequent laws. Subsequent legislation does not supersede general laws unless the contrary clearly appears. (*United States v. Barnes*, 222 U. S., 513; T. D. 1751.)

Where there are two acts upon the same subject they must stand together if possible. (28 Op. Atty. Gen., 70.)

*Statute as a whole:* Statutes should be so construed, if practicable, that one section will explain and support and not defeat or destroy another section. (*Bernier v. Bernier*, 147 U. S., 242.)

The same statute may be in part constitutional and in part unconstitutional; and if the parts are wholly independent of each other, that which is constitutional may stand while that which is unconstitutional will be rejected. Unless it be impossible to avoid it, a general revenue statute should never be declared inoperative in all its parts because a particular part relating to a distinct subject may be invalid. (*Field v. Clark* (1892), 143 U. S., 640; 38 Int. Rev. Rec., 285.)

*Retroactive operation:* A statute is construed as prospective unless the intention is clearly expressed that it is retroactive. (*Flint v. Stone-Tracy Co.*, 220 U. S., 108; T. D. 1685.)

*Presumption:* When an act of Congress is claimed to be unconstitutional, the presumption is in favor of its validity, and it is only when the question is free from any reasonable doubt that courts should hold an act in violation of that fundamental instrument upon which all the powers of the Government rest. (*Nicol v. Ames*, 173 U. S., 509.)

The presumption is in favor of every legislative act. (*Brown v. Maryland*, 12 Wheat., 410; T. D. 1786.)

#### TIME WHEN AN ACT TAKES EFFECT.

A law of Congress which contains no provision as to the time when it shall take effect commences and takes effect as a law from the moment it receives the approbation of the President. As a general rule, it is not competent to go into the division of a day. (28 Op. Atty.

For most purposes the law regards the entire day as an indivisible unit. But when the priority of one legal right over another, depending on the order of events occurring on the same day, is involved, this rule is necessarily departed from. (*National Bank v. Burkhardt*, 100 U. S., 686.)

In the absence of proof there is a presumption that an act was signed on the first minute of the day when it took effect, but it is competent to show by proof the exact time when the law was approved by the President, and when this is made to appear the law can only be given effect from that time. (*Carriage Company v. Stengel*, 37 C. C. A., 210; 95 Fed., 637; *Nunn v. William Gerst Brewing Co.*, 99 Fed., 939.)

The case of *United States v. Iselin* (87 Fed., 191) contains a very full discussion of the subject by the Board of General Appraisers.

When necessary to determine conflicting rights courts of justice will take cognizance of the fractions of a day. (*Louisville v. Savings Bank* (1881), 104 U. S., 469.)

The act of March 3, 1875, took effect from the time it was approved and not at the commencement of the day. (*Salmon v. Burgess*, 97 U. S., 381; 25 Int. Rev. Rec., 31.)

When the act of August 28, 1894, went into effect. (*Burr v. United States*, 159 U. S., 78.)

The act of July 24, 1897, became a law only from the moment of its approval by the President, which was 6 minutes past 4 o'clock p. m. (Washington time) on July 24, 1897. (*United States v. Iselin*, 87 Fed., 194; *United States v. Stoddard*, 89 Fed., 699; affirmed by the United States circuit court of appeals, 91 Fed., 1005; 3 C. C. A., 175.) The Government, on the advice of the Attorney General, acquiesced in said decisions without seeking to present any appeal to the United States Supreme Court. (T. D. 20627; T. D. 20700.)

The act of June 13, 1898, known as the "war-revenue act," took effect on the day next succeeding the day of its passage—that is, on June 14, 1898, except as otherwise provided for. (Sec. 51.)

The act of April 12, 1902 (war-revenue repeal act), took effect July 1, 1902, except as otherwise specially provided for in section 10.

The act of August 5, 1909 (Payne-Aldrich tariff act), took effect unless otherwise specially provided, on the day following its passage.

The act of October 3, 1913, the act of September 8, 1916, the act of October 3, 1917, and the act of February 24, 1919, took effect the day following their passage, unless otherwise specially provided.

#### UNITED STATES SUPREME COURT DECISIONS UNDER ACT OF AUGUST 5, 1909.

##### FEDERAL CORPORATION EXCISE TAX.

*Constitutionality of Act:* *Flint v. Stone-Tracy Co.*, 220 U. S. 107 (T. D. 1685); *McCoach v. Minchill Ry. Co.*, 228 U. S. 295 (T. D. 1847); *United States v. Whitridge*, 231 U. S. 144 (T. D. 1896); *Stratton's Independence v. Howbert*, 231 U. S. 399 (T. D. 1913); *Anderson v. Forty-two Broadway Co.*, 239 U. S. 69 (T. D. 2261).

"Organized for profit": *Von Baumbach v. Sargent Land Co.*, 21

*"Doing business":* Flint v. Stone-Tracy Co., 220 U. S. 107 (T. D. 1685); Zonne v. Minneapolis Syndicate, 220 U. S. 187; McCouch v. Minchill Ry. Co., 228 U. S. 295 (T. D. 1847); Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); United States v. Emery, 237 U. S. 28 (T. D. 2188); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436).

*Deductions in determining net income:* Anderson v. Forty-two Broadway Co., 239 U. S. 69 (T. D. 2261); McCouch v. Insurance Co. of N. America, 244 U. S. 585 (T. D. 2501); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723); Goldfield Consol. Mines Co. v. Scott, 247 U. S. 126 (T. D. 2722).

*Depreciation:* Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436); United States v. Biwabik Mining Co., 247 U. S. 116 (T. D. 2721); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723).

*What is "income":* Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723); United States v. Cleveland, etc., Ry. Co., 247 U. S. 195 (T. D. 2725); Hays v. Gauley Mountain Coal Co., 247 U. S. 189 (T. D. 2724); Altheimer & Rawlings Investment Co. v. Allen, 248 U. S. 578 (T. D. 2686).

*Massachusetts real estate trust not within Act:* Eliot v. Freeman, 220 U. S. 178.

#### UNITED STATES SUPREME COURT DECISIONS UNDER ACT OF OCTOBER 3, 1913.

##### INCOME TAX.

*Constitutionality of act:* Brushaber v. Union Pacific R. R. Co., 240 U. S. 1 (T. D. 2290); Stanton v. Baltic Mining Co., 240 U. S. 103 (T. D. 2303); Tyco Realty Co. v. Anderson, 240 U. S. 115 (T. D. 2300); Dodge v. Osborn, 240 U. S. 118 (T. D. 2301); (Recovery of tax under R. S., secs. 3220, 3226, 3227); Dodge v. Brady, 240 U. S. 122 (T. D. 2302); Peck & Co. v. Lowe, 247 U. S. 105 (T. D. 2726).

*Joint-stock association:* Massachusetts real estate trust held not to be joint-stock association.—Crocker v. Malley, 249 U. S. 223 (T. D. 2816).

*Property of nonresident alien owned in United States:* Do Ganny v. Lederer, June 1, 1919 (T. D. 2876).

*What is "income":* Alimony paid to a divorced wife under a decree of court held not "income."—Gould v. Gould, 245 U. S. 151.

Stock dividend representing surplus profits earned prior to January 1, 1913, not taxable to shareholders as income.—Towne v. Eisner, 245 U. S. 418 (T. D. 2634).

Net income of a corporation derived from exporting goods from the States and selling them abroad is subject to be taxed as part of the "entire net income arising or accruing from all sources."—Peck & Co. v. Lowe, 247 U. S. 105 (T. D. 2726).

Increase in value of timberlands prior to March 1, 1913, when distributed to shareholders on liquidation of corporation, held not "income."—Lynch v. Turrish, 247 U. S. 221 (T. D. 2729).

Accumulations accruing to corporation through surplus earnings or appreciation in property value prior to March 1, 1913, are capital and not income.—Southern Pacific Co. v. Lowe, 247 U. S. 330 (T. D. 2730).

Dividends of a corporation paid to shareholders after March 1, 1913, whether from current earnings or from surplus accumulated before that date, held taxable to shareholders as income under the "surtax" provision. (Lynch v. Turrish, 247 U. S. 221 and Southern Pac. Co. v. Lowe, 247 U. S. 330, distinguished.)—Lynch v. Hornby, 247 U. S. 339 (T. D. 2731).

A dividend by a corporation of shares owned by it in another corporation is not a stock dividend and is subject to tax like an equivalent distribution of money. (Towne v. Eisner, 245 U. S. 418, distinguished; Lynch v. Hornby, 247 U. S. 339, affirmed.)—Peabody v. Eisner, 247 U. S. 347 (T. D. 2732).

Dividends, by subsidiaries to a company holding all their stock and controlling them in conducting a single enterprise, out of earnings accumulated prior to January 1, 1913, are not taxable as income.—Gulf Oil Corp. v. Lewellyn, 248 U. S. 71 (T. D. 2783).

## INTERNAL REVENUE LEGISLATION.

The Revised Statutes were compiled under an act of June 27, 1866 (14 Stat., 74).

A list of acts respecting internal-revenue duties, from the first act (act of March 3, 1791) to April 28, 1928, is published in United States Statutes at Large, Volume 1.

### ACTS OF CONGRESS RELATING TO INTERNAL REVENUE ENACTED SINCE JULY 4, 1861,<sup>1</sup> AND BEFORE DECEMBER, 1873.

[Not including private acts, nor appropriation acts passed prior to the enactment of the Revised Statutes, June 22, 1874.]

#### REVISED STATUTES, TITLE XXXV, SECTIONS 3140-3165.

No reference can be had to the original statutes to control the construction of any section of the Revised Statutes when its meaning is plain, but where there is a substantial doubt as to the meaning of the language used in the revision the old law is a valuable source of information. (United States v. Bowen, 100 U. S., 508, 513; United States v. Lacher, 131 U. S., 621.)

In construing any part of the Revised Statutes it is admissible and often necessary to recur to its connection in the act of which it was originally a part. (United States v. Hirsch, 100 U. S., 35.)

In case of ambiguous language in the Revised Statutes or uncertainty as to the true construction to be given to the words of any section, previous acts on the same subject may be referred to and examined for light on the subject and intent of Congress as shown by the course of legislation. In the same manner as statutes in pari materia relating to the same subject may always be taken, compared, and construed together. (Wright v. United States, 15 Ct. Cls., 87. See also United States v. Claffin, 97 U. S., 546, and opinion of First Comptroller Porter in Kansas claim for 5 per cent net proceeds of public lands, 1 Lawrence Dec., 43.)

No inference or presumption of a legislative construction is to be drawn by reason of the title under which any particular section is placed. (Sec. 5600, R. S.)

An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes, approved August 5, 1861 (12 Stat., 292.) See act June 7, 1862 (12 Stat., 422).

Direct tax and income. The act of March 2, 1861 (12 Stat., 322), authorized the return to the States of the direct tax collected.

An act to provide internal revenue to support the Government and to pay interest on the public debt, approved July 1, 1862 (12 Stat., 432).

Office of Internal Revenue created.

*Income tax.*—Under this act the tax was 3 per cent on incomes over \$600 and not over \$10,000; over \$10,000, 5 per cent. Act of March 3, 1865, over \$600 and not over \$5,000, 5 per cent; over \$5,000, 10 per cent on excess over \$5,000. Act of March 2, 1867, over \$1,000, 5 per cent. Act of July 14, 1870, over \$2,000, 2½ per cent. Income tax expired by limitation December 31, 1871. No income tax was collected under the act of June 30, 1864, as it was amended by the act of March 3, 1865, before it was collectible.

Imposed tax on cotton.

<sup>1</sup>On this date Congress convened in its first (extraordinary) session after the commencement of the War of the Rebellion, at which session was commenced the legislation which has since produced the present system of internal revenue taxation.

An act increasing temporarily the duties on imports, and for other purposes, approved July 14, 1862 (12 Stat., 543, 560).

Sections 24 and 25 relate to internal revenue.

An act to impose an additional duty on sugars produced in the United States, approved July 16, 1862 (12 Stat., 588).

Joint resolution to amend section 77 of "An act to provide internal revenue to support the Government and to pay interest on the public debt," and for other purposes, approved July 17, 1862 (12 Stat., 627.)

An act to amend an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July 1, 1862. Approved December 25, 1862 (12 Stat., 632).

An act to provide ways and means for the support of the Government, approved March 3, 1863 (12 Stat., 709).

Section 7, bank circulation.

An act to amend an act entitled "An act to provide internal revenue to support the Government and [to] pay interest on the public debt," approved July 1, 1862, and for other purposes. Approved March 3, 1863 (12 Stat., 713).

An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes, approved March 3, 1863 (12 Stat., 737).

Joint resolution to provide for the printing annually of the report of the Commissioner of Internal Revenue, approved January 13, 1864 (13 Stat., 400).

An act to increase the internal revenue, and for other purposes, approved March 7, 1864 (13 Stat., 14).

An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864 (13 Stat., 223).

Inspection stamps required on cigars. No money value.

Joint resolution imposing a special income duty [for the year ending December 31 next preceding October 1, 1864], approved July 4, 1864 (13 Stat., 417).

An act to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864. Approved December 22, 1864 (13 Stat., 420).

An act to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864. Approved March 3, 1865 (13 Stat., 469).

Inspection stamps required on tobacco and snuff. No money value.

An act amendatory of certain acts imposing duties upon foreign importations, approved March 3, 1865 (13 Stat., 401).

An act authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue, approved January 15, 1866 (14 Stat., 2).

An act to declare the meaning of certain parts of the internal-revenue act, approved June 30, 1864, and for other purposes. Approved March 10, 1866 (14 Stat., 4).

An act to reduce internal taxation and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof. Approved July 13, 1866 (14 Stat., 98).

First act reducing taxation. Stamps first required on fermented liquors. Changing "Licenses" to "Special taxes."

An act to authorize the refunding of certain taxes, approved July 27, 1866 (14 Stat., 301).

An act amendatory of section 13 of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865. Approved July 27, 1866 (14 Stat., 301).

Joint resolution to prevent the further enforcement of the joint resolution (No. 77) approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special 5 per cent income tax imposed thereby, approved July 28, 1866 (14 Stat., 371).

Joint resolution to amend existing laws relating to internal revenue, approved February 5, 1867 (14 Stat., 565).

A resolution to provide in certain cases for the removal of alcohol from bonded warehouses free from internal tax, approved February 18, 1867 (14 Stat., 565).

An act to amend existing laws relating to internal revenue, and for other purposes, approved March 2, 1867 (14 Stat., 471).

Reduced taxes.

An act to exempt wrapping paper made from wood or corn-stalks from internal tax, and for other purposes, approved March 26, 1867 (15 Stat., 6).

An act to prevent frauds in the collection of tax on distilled spirits, approved January 11, 1868 (15 Stat., 31).

Prohibits removal of spirits from warehouse for the purpose of transportation, redistillation, or rectification, change of package, or for any other purpose, until the full tax has been paid.

An act to provide for the exemption of cotton from internal tax, approved February 3, 1868 (15 Stat., 34).

Reduced taxes by repealing cotton tax.

Joint resolution to provide for a commission to examine and report on meters for distilled spirits, approved February 3, 1869 (15 Stat., 246).

An act to exempt certain manufactures from internal tax, and for other purposes, approved March 31, 1868 (15 Stat., 58).

Reduced taxes.

An act for the relief of certain exporters of rum, approved June 25, 1868 (15 Stat., 78).

Sec.	Sec.
3159. (Repealed.)	3108. Officers not to be interested in certain manufactures; penalty.
3160. (Repealed.)	3160: Officers guilty of extortion, receiving unlawful fees, and other unlawful acts; penalty.
3161. Officers in charge of exportation and drawbacks.	1. Act March 1, 1870. Collectors, etc., issuing stamps before payment; penalty.
3162. Collectors and superintendents of exports may administer oaths.	23. Act February 8, 1875. Laws imposing punishment on internal revenue officers applied to certain other classes of persons.
3163 (amended). Duties of collectors and internal revenue agents.	3170. District attorney or marshal accepting or demanding anything for compromise of violations of law.
1. Act August 15, 1870. Commissioner may transfer and suspend certain officers.	3171 (amended). Officers suffering injuries may maintain suit for damages.
3164 (amended). Collectors to report violations of law to district attorney.	1301 (d). Act February 24, 1910. Advisory Tax Board.
3165 (amended). Revenue officers who may administer oaths and take evidence.	
8. Act August 21, 1912. Oaths to expense accounts.	
3166. Revenue officers specially authorized to make seizures.	
3167 (amended). Revenue officers disclosing operations of manufacturers, etc.; penalty.	

## Definitions.

SEC. 3140. [Amended by act of February 27, 1877 (19 Stat., 240).] The word "State," when used in this Title, shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out its provisions. And where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the word "person," as used in this title, shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person.

SEC. 1, R. 8. In determining the meaning of the Revised Statutes, or of any act or resolution of Congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; \* \* \* the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form.

SEC. 2. The word "county" includes a parish, or any other equivalent subdivision of a State or Territory of the United States.

SEC. 3. The word "vessel" includes every description of water craft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 4. The word "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land.

SEC. 5. The word "company" or "association," when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company

or association," in like manner as if these last-named words, or words of similar import, were expressed.

Person includes corporations. (23 Int. Rev. Rec., 141; 15 Op. Atty. Gen., 230.) The term "corporation," as used in the acts of Congress touching internal revenue, does not include a State. The term "person" does not include a State. (12 Op. Atty. Gen., 170.)

A railroad wholly owned by a State and operated by it is not taxable under United States revenue laws. (George v. Atkins, 1 Abb. (U. S.), 22; 6 Int. Rev. Rec., 113.)

When a State engages in commercial business for a profit, it can not claim exemption from taxation on the principle that it is a tax on the instrumentalities of the State government. (South Carolina v. United States, 39 Ct. Cls., 257; T. D. 759; 199 U. S., 437; T. D. 961.)

As to the meaning of the term "revenue law." (United States v. Hill, 123 U. S., 681.)

The general provisions of Chapters 1 and 2 apply to taxes imposed by subsequent legislation containing no provisions to the contrary. (United States v. Barber, 222 U. S., 513; T. D. 1751.)

SEC. 3141. For the purpose of assessing, levying, and collecting the taxes provided by the internal-revenue laws, the President may establish convenient collection-districts, and for that purpose he may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district, and may from time to time alter said districts: *Provided*, That the number of districts in any State shall not exceed the number of Representatives in Congress to which such State was entitled in the Thirty-seventh Congress, except in such States as were entitled to an increased representation in the Thirty-eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which any such State was so entitled: *And provided further*, That in the State of California the President may establish a number of districts not exceeding the number of Senators and Representatives to which said State was entitled, in the Thirty-seventh Congress.

The power of the President to change or alter collection districts considered. (10 Op. Atty. Gen., 469; 12 Op. Atty. Gen., 51; 14 Op. Atty. Gen., 215.)

Supreme Court will take judicial notice that the United States is divided into collection districts for revenue purposes. (United States v. Jackson, 104 U. S., 41; 23 Int. Rev. Rec., 12.)

SEC. 3142. The President, by and with the advice and consent of the Senate, shall appoint for each collection district a collector, who shall be a resident of the same. When two or more collection-districts are united by him, he may designate from among the existing officers of such districts one collector for the new district, or, at his discretion, he may make a new appointment of such officer for said district.

Assessors abolished. Act of December 24, 1872. The legislative appropriation act for 1877, passed August 15, 1870 (19 Stat., 152), reduced the number of internal-revenue districts to 131.

Collection districts.

Verbal error corrected. Act Feb. 27, 1877 (19 Stat., 240).

Collectors.

posed by the internal-revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury.

Construction of act (March 2, 1833 (4 Stat., 632).

Sec. 3165. An act entitled "An act further to provide for the collection of duties on imports," passed March second, eighteen hundred and thirty-three, shall not be so construed as to apply to cases arising under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June thirtieth, eighteen hundred and sixty-four, or any act in addition thereto or in amendment thereof, nor to any case in which the validity or interpretation of said act or acts shall be in issue.

Hornthall v. Collector (9 Wall., 560); Assessor v. Osbornes (9 Wall., 577).

The words "revenue laws," where used broadly and generally, include internal revenue as well as customs laws. (United States v. Dustin, 15 Int. Rev. Rec., 30.)

AN ACT Relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon.

[Act August 13, 1894 (28 Stat. 279), amended by act of March 23, 1910 (36 Stat. 241).]

That whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States, or of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That such recognizance, stipulation, bond, or undertaking be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company.

Bonds executed and guaranteed solely by a corporation, when sufficient.

Sec. 2. That no such company shall do business under the provisions of this Act beyond the limits of the State or Territory under whose laws it was incorporated and in which its principal office is located, nor beyond the limits

of the District of Columbia, when such company was incorporated under its laws or the laws of the United States and its principal office is located in said District, until it shall by a written power of attorney appoint some person residing within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, who shall be a citizen of the State, Territory, or District of Columbia, wherein such court is held, as its agent, upon whom may be served all lawful process against such company, and who shall be authorized to enter an appearance in its behalf. A copy of such power of attorney, duly certified and authenticated, shall be filed with the clerk of the district court of the United States for such district at each place where a term of such court is or may be held, which copy, or a certified copy thereof, shall be legal evidence in all controversies arising under this Act. If any such agent shall be removed, resign, or die, become insane, or otherwise incapable of acting, it shall be the duty of such company to appoint another agent in his place as hereinbefore prescribed, and until such appointment shall have been made, or during the absence of any agent of such company from such district, service of process may be upon the clerk of the court wherein such suit is brought, with like effect as upon an agent appointed by the company. The officer executing such process upon such clerk shall immediately transmit a copy thereof by mail to the company, and state such fact in his return. A judgment decree, or order of a court entered or made after service of process as aforesaid shall be as valid and binding on such company as if served with process in said district.

Power of attorney.

A copy of power of attorney to be filed with clerk of the district court.

When a agent removed, etc.

Service of process.

Judgment.

Copy of charter or articles of incorporation, etc., to be filed with Secretary of the Treasury.

Sec. 3. (Amended by act of March 23, 1910; 36 Stat. 241). That every company, before transacting any business under this Act, shall deposit with the Secretary of the Treasury of the United States a copy of its charter or articles of incorporation, and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. If the said Secretary of the Treasury shall be satisfied that such company has authority under its charter to do the business provided for in this Act, and that it has a paid-up capital of not less than two hundred and fifty thousand dollars, in cash or its equivalent, and is able to keep and perform its contracts, he shall grant authority in writing to such company to do business under this Act.

Sec. 4. That every such company shall, in the months of January, April, July, and October of each year, file with the said Secretary of the Treasury a statement, signed and sworn to by its president and secretary, showing its assets and liabilities, as is required by section three of this Act. And the said Secretary of the Treasury shall have the power, and it shall be his duty, to revoke the authority of any such company to transact any

The company to file statement during the year, showing its assets and liabilities.

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any of its possessions, there shall be levied, collected, and paid thereon an export duty of \$8 per ton of two thousand pounds irrespective of polariscope test, in lieu of any export tax now required by law.

Taxes collected to be used for benefit of the islands.

Sec. 5. That the duties and taxes collected in pursuance of this act shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of said islands under such rules and regulations as the President may prescribe.

\* \* \* \* \*

Duties and taxes in re islands purchased from Denmark. (23 Compt. Dec., 574.)

Time of taking effect of act of March 3, 1917, upon payment of \$25,000,000 to be made public by proclamation of President. (See proclamation of March 31, 1917; T. D. 37095.)

Tax upon articles from Virgin Islands.

Sec. 1301. [Act of February 24, 1910 (40 Stat., 1057).] That there shall be levied, collected, and paid in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal-revenue tax imposed in the United States upon like articles of domestic manufacture; such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of such islands: *Provided*, That there shall be levied, collected, and paid in such islands, upon articles imported from the United States, a tax equal to the internal-revenue tax imposed in such islands upon like articles there manufactured; and such articles going into such islands from the United States shall be exempt from payment of any tax imposed by the internal-revenue laws of the United States.

Articles going into Virgin Islands from United States.

Provisions of act of February 24, 1910 (40 Stat., 1057), of general application.

Definitions.

TITLE I.—GENERAL DEFINITIONS.

SECTION 1. That when used in this Act—

The term "person" includes partnerships and corporations, as well as individuals;

The term "corporation" includes associations, joint-stock companies, and insurance companies;

The term "domestic" when applied to a corporation or partnership means created or organized in the United States;

The term "foreign" when applied to a corporation or partnership means created or organized outside of the United States;

The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "Secretary" means the Secretary of the

The term "Commissioner" means the Commissioner of Internal Revenue;

The term "collector" means collector of internal revenue;

The term "Revenue Act of 1916" means the Act entitled "An Act to increase the revenue, and for other purposes," approved September 8, 1916;

The term "Revenue Act of 1917" means the Act entitled "An Act to provide revenue to defray war expenses, and for other purposes," approved October 3, 1917;

The term "taxpayer" includes any person, trust or estate subject to a tax imposed by this Act;

The term "Government contract" means (a) a contract made with the United States, or with any department, bureau, officer, commission, board, or agency, under the United States and acting in its behalf, or with any agency controlled by any of the above if the contract is for the benefit of the United States, or (b) a subcontract made with a contractor performing such a contract if the products or services to be furnished under the subcontract are for the benefit of the United States. The term "Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive" when applied to a contract of the kind referred to in clause (a) of this paragraph, includes all such contracts which, although entered into during such period, were originally not enforceable, but which have been or may become enforceable by reason of subsequent validation in pursuance of law;

The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female, but this shall not be deemed to exclude other units otherwise included within such term;

The term "present war" means the war in which the United States is now engaged against the German Government.

For the purposes of this Act the date of the termination of the present war shall be fixed by proclamation of the President.

Article 1300, Regulations No. 45, headed "Limited partnership as corporation," amended. (T. D. 2943.)

Sec. 1305. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

Last part of act: records, statements, and returns: regulations.

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him, to make a return or such statements as he deems sufficient to show whether or not such person is liable to tax.

Examination of books, etc.; taking testimony.

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

Floor taxes; returns; time for payment; extension of time.

SEC. 1306. That where floor taxes are imposed by this Act in respect to articles or commodities, in respect to which the tax imposed by existing law has been paid, the person required by this Act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this Act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner, with the approval of the Secretary, may prescribe.

Mode of collecting taxes; stamp taxes.

SEC. 1307. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided in this Act, the tax shall be collected in such manner as the Commissioner, with the approval of the Secretary, may prescribe. All administrative and penalty provisions of Title XI of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be paid by stamp.

Failure to pay, collect, account for and pay over tax or to make return or supply information.

SEC. 1308. (a) That any person required under Titles V, VI, VII, VIII, IX, X, or XII, to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make

such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or of section 605 or 620 of this Act, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

Rules and regulations.

The Commissioner with such approval may by regulation provide that any return required by Titles V, VI, VII, VIII, IX, or X to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

Attestation to certain returns.

SEC. 1310. (a) That in the case of any overpayment or overcollection of any tax imposed by section 628 or 630 or by Title V, Title VIII, or Title IX, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return; and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

Credit of overpayments or overcollections.

(b) Wherever in this Act a tax is required to be paid by the purchaser to the vendor at the time of a sale, and such sale is made on credit, then, under regulations prescribed by the Commissioner with the approval of the Secretary, the tax may, at the option of the vendor, be returned and paid by him to the United States as if paid to him by the purchaser at the time of the sale, and in such case the vendor shall have a right of action in any court of competent jurisdiction against the purchaser for the amount of the tax so returned and paid to the United States.

Payment of taxes on sales on credit.

Interest on judgments. State law governs. (T. Ds. 1010, 1017.)

Interest on judgments against United States under the Tucker Act 4 per cent from date of final judgment until appropriation is made. Section 10, act of March 3, 1887. (19 Comp. Dec., 152.)

#### Circuit Court of Appeals.

An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes. (Act of Mar. 3, 1891; 26 Stat., 827.)

Circuit courts of appeal were created by the act of March 3, 1891, with substantially the same jurisdiction described in chapter 6 of the Judicial Code.

The jurisdiction of the circuit court of appeals is wholly appellate and is governed by the Judicial Code. (Act of Mar. 3, 1911, sec. 129, et seq.)

The judgments and decrees of the circuit courts of appeals are final in all cases under the revenue laws (sec. 123 of the Judicial Code, act of Mar. 3, 1911), and can only be carried to the Supreme Court by certificate or certiorari. (*American Sugar Refining Co. v. United States*, 211 U. S., 155.)

Writ of certiorari, effect of dismissing petition for. (*Anderson v. Moyer*, 103 Fed., 400.)

The Tucker Act of March 3, 1887 (24 Stat., 505), as amended by act of June 27, 1893, and act of July 1, 1893, provided for bringing suit against the United States on certain classes of claims and giving jurisdiction to the Court of Claims concurrent with that court to the district courts and circuit courts, respectively, and was incorporated in the Judicial Code and the act repealed, except sections 4-7, 10. (Sec. 297, Judicial Code, act of Mar. 3, 1911; 36 Stat., 1087.)

Suits under act of March 3, 1887, or paragraph 20, section 24, Judicial Code, to be tried without a jury.

In suits under act of March 3, 1887, against United States, in case of adverse judgment, question of appeal to be determined by the Attorney General. (Sec. 10.)

The Bowman Act of March 3, 1883 (22 Stat., 485), provided for transmission by the executive departments to the Court of Claims for finding of facts, etc., was incorporated in the Judicial Code (sec. 148) and the act repealed. (Sec. 297, Judicial Code, act of Mar. 3, 1911; 36 Stat., 1087.)

Circuit Court of Appeals has no jurisdiction of suit by one railroad company against another and a collector of internal revenue to determine liability for income tax on certain dividends as between the two companies, where the controversy depends wholly on construction of lease executed by plaintiff railroad to defendant, both being citizens of New York, whose courts may determine controversy, unless collector should remove case under section 33 of Judicial Code. (*Kensselaer & Saratoga R. Co. v. Delaware & Hudson Co.*, 257 Fed., 555.)

#### Writs of error and appeals.

SEC. 11. [Act of March 3, 1891 (26 Stat. 829).] That no appeal or writ of error by which any order, judgment, or decree may be reviewed in the circuit court of appeals under the provisions of this act shall be taken or sued out except within six months after the entry of the order, judgment or decree sought to be reviewed: *Provided, however*, That in all cases in which a lesser time is now by law limited for appeals or writs of error such limits of time shall apply to appeals or writs of error in such cases taken to or sued out from the circuit courts of appeals.

No appeal or writ of error, by which any order, judgment, or decree may be reviewed in the circuit court of appeals, shall be taken or sued out except within six months after the entry of the order, judgment, or decree. (*Siegelbacher v. Penn. Mut. Life Ins. Co.*, 248 Fed., 220; *Collins v. Hoffman*, 245 Fed., 20; *Rutan v. Johnson*, 180 Fed., 100.)

The statutory time for taking appeals is prescribed by act of Congress,

#### Writs of error and appeals to Supreme Court.

SEC. 6. [Act of September 6, 1916 (39 Stat. 726).] That no writ of error, appeal or writ of certiorari intended to bring up any cause for review by the Supreme Court shall be allowed or entertained unless duly applied for within three months after entry of the judgment or decree complained of: *Provided*, that writs of certiorari addressed to the Supreme Court of the Philippine Islands may be granted if application therefor be made within six months.

An internal revenue case may be taken to the Supreme Court when the constitutionality of an act of Congress is involved. (*Spreckels Sugar Refining Co. v. McClain*, 192 U. S., 397; T. D. 760.)

Appeals and writs of error may be taken from district courts direct to the Supreme Court in the cases mentioned in section 238, Judicial Code, amended by act of January 28, 1915. (38 Stat., 801.)

An act to provide for writs of error or appeals to the Supreme Court of the United States in all cases involving the question of the jurisdiction of the court below. (Act of February 25, 1859; 25 Stat., 693.) Section 238, "Judicial Code."

As to Alaska, the act of June 6, 1900, section 504 (31 Stat., 411) provides that appeals and writs of error may be taken from the district court directly to the Supreme Court in five classes of cases. Section 247, "Judicial Code."

In Porto Rico (act of April 12, 1900; 31 Stat., 81) there is established a district court of the United States with jurisdiction of circuit courts of the United States. It is provided that writs of error and appeal from the final decisions of the supreme court of Porto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as from the supreme courts of the Territories; "and such writs of error and appeal shall be allowed in all cases where the Constitution of the United States or a treaty thereof or an act of Congress is brought in question and a right claimed thereunder is denied." Section 244, "Judicial Code."

Writs of error and appeals from Supreme Court of Porto Rico may be taken to circuit court of appeals and United States Supreme Court as now provided. Section 43, act of March 2, 1917. (39 Stat., 963.)

Virgin Islands. Appeals and writs of error to circuit court of appeals, third circuit, act of March 3, 1917. (39 Stat., 1132.)

Cases from Alaska and Hawaii are reviewable in the circuit court of appeals for the ninth circuit under sections 134 and 123 and 116, respectively, of the Judicial Code, and cases from the district court of Porto Rico are reviewable in the circuit court of appeals for the first circuit under the provisions of the act of January 25, 1915. (38 Stat., 803.)

Distinction between an appeal and writ of error. (*United States v. Diamond Match Co.*, 115 Fed., 288.)

Writs of error in criminal cases allowed by United States to Supreme Court on demurrers to indictment where decision was based on the invalidity or construction of the statute upon which the indictment was found. Act of March 2, 1917; 34 Stat., 1246. (*United States v. Stevenson*, 215 U. S., 100.)

A judgment of affirmance by a divided appellate court conclusively settles the rights of the parties in the particular litigation but does not establish a precedent in the court which renders it, and does not control inferior tribunals in other cases. (*Westhus v. Union Trust Co.*, 163 Fed., 617.)

Affirmances by the Supreme Court by reason of the court being equally divided settle no principle of law. (*Kinney v. Conant*, 166 Fed., 729.)

Certifying questions to the Supreme Court. Authority of circuit court of appeals to certify questions to the Supreme Court. (*Dickinson v. United States*, 174 Fed., 808; *Railway Co. v. Pope*, 74 Fed., 1; *Andrews v. National Foundry & Pipe Works*, 77 Fed., 774; *Pullman Pal. Car Co. v. Cent. Transp. Co.*, 83 Fed., 1.)

Questions certified must be distinct questions of law clearly stated. (*Graves v. Faurot*, 162 U. S., 435; *United States v. Union Pacific R. Co.*)

**INTELLIGENCE ACTIVITIES**

**SENATE RESOLUTION 21**

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**HEARINGS**

**BEFORE THE**

**SELECT COMMITTEE TO STUDY  
GOVERNMENTAL OPERATIONS WITH  
RESPECT TO INTELLIGENCE ACTIVITIES**

**OF THE**

**UNITED STATES SENATE**

**NINETY-FOURTH CONGRESS**

**FIRST SESSION**

—  
**VOLUME 3**  
—

**INTERNAL REVENUE SERVICE**

**OCTOBER 2, 1975**



# INTELLIGENCE ACTIVITIES—INTERNAL REVENUE SERVICE

THURSDAY, OCTOBER 2, 1975

SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS  
WITH RESPECT TO INTELLIGENCE ACTIVITIES,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Tower, Mondale, Huddleston, Morgan, Hart (Colorado), Baker, Mathias, and Schweiker.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel, and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing will please come to order.

↙ The Internal Revenue Service is one of the largest repositories of raw intelligence information in the United States. It has 700 offices spread across the country, and it employs over 88,000 people, including more than 2,500 special agents. The data collected by this behemoth lay bare the lives of 80 million individuals who file their tax forms each year.

In meeting our obligation to pay taxes on our earnings and thus support this country, we reveal to the IRS some of the most private and personal aspects of our lives. We tell the IRS for whom we work and how much money we make. We tell the IRS not only how many children we have, but additionally their educational achievements. We tell the IRS how we spend and invest our money, what charities we favor, and how we contribute to the churches we attend.

Upon examination of the 1040 income tax return, which the vast majority of us are required to file with IRS, one can determine if we suffered an extensive illness during the previous year, whether we bought eyeglasses, and the extent to which we traveled. In short, information we furnish the IRS constitutes an accurate profile of our lives and our lifestyles.

Moreover, the IRS conducts special tax audits and investigations to gather still more information. Unlike other intelligence agencies, the IRS can obtain financial information upon demand, without a subpoena.

The IRS is an intelligence agency in two respects. First, it is a vast reservoir of detailed personal information about Americans, and second, it conducts intelligence-collection activities through its own intelligence division.

(1)

"(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

"(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

"(3) the Asset Forfeiture Office of the Criminal Division; and

"(4) the Organized Crime Drug Enforcement Task Force Program;

"(b) Legislative recommendations.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

"Sec. 1054. Civil enforcement enhancement.

"(a) Duty of Attorney General.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

"(b) Duty of Associate Attorney General.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

"(c) Authorization of appropriations.—(1) There are authorized to be appropriated \$3,000,000 for salaries and expenses to the Department of Justice General Legal Activities Account and \$3,000,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

"(2) Any appropriation of funds authorized under paragraph (1) shall be—

"(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

"(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

"(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

"(d) Reporting requirement.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

"Sec. 1055. Expenses of Task Forces.

"(a) Appropriations and reimbursements procedure.—Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation

Account for the Attorney General to make reimbursements to the involved agencies as necessary.

"(b) Enhancement of field activities.—The appropriations and reimbursements procedure described under subsection (a) shall—

"(1) provide for the flexibility of the Task Forces which is vital to success;

"(2) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

"(3) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

"(4) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort."

Impact Analysis of Additional Resources to Certain Components of Federal Criminal Justice System; Study by Comptroller General and Report to Congress. Pub.L. 100-690, Title IX, § 9201, Nov. 18, 1988, 102 Stat. 4535, provided that:

"(a) Study.—The Comptroller General of the United States shall conduct a study—

"(1) to determine the impact of additional resources to certain components of the Federal criminal justice system on other components of the system and of enhanced or new Federal criminal penalties or laws on the agencies and offices of the Department of Justice, the Federal courts, and other components of the Federal criminal justice system; and

"(2) use the data derived from the impact analysis to develop a model that can be applied by Congress and Federal agencies and departments to help determine appropriate staff and budget responses in order to maintain balance in the Federal criminal justice system and effectively implement changes in resources, laws, or penalties.

"(b) Report to Congress.—The Comptroller General shall report the results and recommendations derived from the study required by subsection (a) no later than 1 year after the date of enactment of this Act [Nov. 18, 1988]."

#### EXECUTIVE ORDER NO. 12146

July 18, 1979, 44 F.R. 42657 as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617

#### MANAGEMENT OF FEDERAL LEGAL RESOURCES

By the authority vested in me as President by the Constitution and statutes of the United States of America, it is hereby ordered as follows:

##### 1-1. Establishment of the Federal Legal Council.

1-101. There is hereby established the Federal Legal Council, which shall be composed of the Attorney General and the representatives of not more than 15 other agencies. The agency representative shall be designated by the head of the agency.

1-102. The initial membership of the Council, in addition to the Attorney General, shall consist of representatives designated by the heads of the following agencies:

(a) The Department of Commerce.

(b) The Department of Defense.

(c) The Department of Energy.

(d) The Environmental Protection Agency.

(e) The Equal Employment Opportunity Commission.

(f) The Federal Trade Commission.

(g) The Department of Health and Human Services.

(h) The Interstate Commerce Commission.

(i) The Department of Labor.

(j) The National Labor Relations Board.

(k) The Securities and Exchange Commission.

(l) The Department of State.

(m) The Department of the Treasury.

(n) The United States Postal Service, and

(o) The Veterans Administration.

1-103. The initial members of the Council shall serve for a term of two years. Thereafter, the agencies which compose the membership shall be designated annually by the Council and at least five positions on the Council, other than that held by the Attorney General, shall rotate annually.

1-104. In addition to the above members, the Directors of the Office of Management and Budget and the Office of Personnel Management, or their designees, shall be advisory members of the Council.

1-105. The Attorney General shall chair the Council and provide staff for its operation. Representatives of agencies that are not members of the Council may serve on or chair subcommittees of the Council.

##### 1-2. Functions of the Council.

1-201. The Council shall promote:

(a) coordination and communication among Federal legal offices;

(b) improved management of Federal lawyers, associated support personnel, and information systems;

(c) improvements in the training provided to Federal lawyers;

(d) the facilitation of the personal donation of pro bono legal services by Federal attorneys;

(e) the use of joint or shared legal facilities in field offices; and

(f) the delegation of legal work to field offices.

1-202. The Council shall study and seek to resolve problems in the efficient and effective management of Federal legal resources that are beyond the capacity or authority of individual agencies to resolve.

1-203. The Council shall develop recommendations for legislation and other actions: (a) to increase the efficient and effective operation and management of Federal legal resources, including those matters specified in Section 1-201, and (b) to avoid inconsistent or unnecessary litigation by agencies.

##### 1-3. Litigation Notice System.

1-301. The Attorney General shall establish and maintain a litigation notice system that provides timely information about all civil litigation pending in the courts in which the Federal Government is a party or has a significant interest.

1-302. The Attorney General shall issue rules to govern operation of the notice system. The rules shall include the following requirement:

(a) All agencies with authority to litigate cases in court shall promptly notify the Attorney General about those cases that fall in classes or categories designated from time to time by the Attorney General.

(b) The Attorney General shall provide all agencies reasonable access to the information collected in the litigation notice system.

##### 1-4. Resolution of Interagency Legal Disputes.

1-401. Whenever two or more Executive agencies are unable to resolve a legal dispute between them, including the question of which has jurisdiction to administer a particular program or to regulate a particular activity, each agency is encouraged to submit the dispute to the Attorney General.

1-402. Whenever two or more Executive agencies whose heads serve at the pleasure of the President are unable to resolve such a legal dispute, the agencies shall submit the dispute to the Attorney General prior to proceeding in any court, except where there is specific statutory vesting of responsibility for a resolution elsewhere.

##### 1-5. Access to Legal Opinions.

1-501. In addition to the disclosure now required by law, all agencies are encouraged to make available for public inspection and copying other opinions of their legal officers that are statements of policy or interpretation that have been adopted by the agency, unless the agency determines that disclosure would result in demonstrable harm.

1-502. All agencies are encouraged to make available on request other legal opinions, when the agency determines that disclosure would not be harmful.

##### 1-6. Automated Legal Research and Information Systems.

1-601. The Attorney General, in coordination with the Secretary of Defense and other agency heads, shall provide for a computerized legal research system that will be available to all Federal law offices on a reimbursable basis. The system may include in its data base such Federal regulations, case briefs, and legal opinions as the Attorney General deems appropriate.

1-602. The Federal Legal Council shall provide leadership for all Federal legal offices in establishing appropriate word processing and management information systems.

##### 1-7. Responsibilities of the Agencies.

1-701. Each agency shall (a) review the management and operation of its legal activities and report in one year to the Federal Legal Council all steps being taken to improve those operations, and (b) cooperate with the Federal Legal Council and the Attorney General in the performance of the functions provided by this Order.

1-702. To the extent permitted by law, each agency shall furnish the Federal Legal Council and the Attorney General with reports, information and assistance as requested to carry out the provisions of this Order.

JIMMY CARTER

§ 510. Delegation of authority

The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 612.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: [Uncodified], 1950 Reorg. Plan No. 2, § 2, eff. May 24, 1950, 64 Stat. 1261.

The words "including any function transferred to the Attorney General by the provisions of this reorganization plan" are omitted as executed and unnecessary as the words "any function of the Attorney General" include the functions transferred to the Attorney General by 1950 Reorg. Plan. No. 2.

§ 511. Attorney General to advise the President

The Attorney General shall give his advice and opinion on questions of law when required by the President.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 612.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 303, R.S. § 354, Feb. 27, 1877, ch. 69, § 1 (8th full par. on p. 241), 19 Stat. 241.

§ 512. Attorney General to advise heads of executive departments

The head of an executive department may require the opinion of the Attorney General on questions of law arising in the administration of his department.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 613.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 304, R.S. § 356.

§ 513. Attorney General to advise Secretaries of military departments

When a question of law arises in the administration of the Department of the Army, the Department of the Navy, or the Department of the Air Force, the cognizance of which is not given by statute to some other officer from whom the Secretary of the military department concerned may require advice, the Secretary of the military department shall send it to the Attorney General for disposition.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 613.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 307, R.S. § 357.

The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. "Department of the Air Force" is added on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502. The word "Secretary" is substituted for "head." The words "military department" are substituted for "department" to conform to section 102 of title 5, United States Code, and section 101 of title 10, United States Code. The words "for disposition" are substituted for "to be by him referred to the proper officer in his department, or otherwise disposed of as he may deem proper."

§ 514. Legal services on pending claims in departments and agencies

When the head of an executive department or agency is of the opinion that the interests of the United States require the service of counsel on the examination of any witness concerning any claim, or on the legal investigation of any claim, pending in the department or agency, he shall notify the Attorney General, giving all facts necessary to enable him to furnish proper professional service in attending the examination or making the investigation, and the Attorney General shall provide for the service.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 613.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 48, R.S. § 187. Row 2: 5 U.S.C. 313, R.S. § 364.

Sections 187 and 364 of the Revised Statutes are combined into one section since they both deal with the same subject matter and are derived from the Act of Feb. 14, 1873, ch. 51, § 2, 16 Stat. 412.

The words "executive department" are substituted for "Department" because "Department", as used in R.S. §§ 187 and 364, meant "executive department". (See R.S. § 159.) The word "agency" is substituted for "bureau" as it has a more common current acceptance. The word "concerning" is substituted for "touching". Reference to application for a subpoena is omitted as R.S. § 364 gives the department head the same authority to request aid from the Attorney General whether or not application has been made for a subpoena.

Section 187 of the Revised Statutes was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Minor changes are made in phraseology to allow for the combining of the two sections.

§ 515. Authority for legal proceedings; commission, oath, and salary for special attorneys

(a) The Attorney General or any other officer of the Department of Justice, or any attorney specially appointed by the Attorney General under law, may, when specifically directed by the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States attorneys are authorized by law to conduct, whether or not he is a resident of the district in which the proceeding is brought.

(b) Each attorney specially retained under authority of the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney, and shall take the oath required by law. Foreign counsel employed in special cases are not required to take the oath. The Attorney General shall fix the annual salary of a special assistant or special attorney at not more than \$12,000.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 613.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 310, June 30, 1906, ch. 3935, 34 Stat. 816. Row 2: 5 U.S.C. 315, R.S. § 366, Apr. 17, 1930, ch. 174, 46 Stat. 170. Row 3: June 25, 1948, ch. 646, § 3, 62 Stat. 985. Row 4: [Uncodified], Aug. 5, 1953, ch. 328.

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: [Uncodified], July 2, 1954, ch. 466, § 202 (as applicable to special assistants and special attorneys), 68 Stat. 421.

In subsection (a), the words "or counselor" are omitted as redundant. The words "United States attorneys" are substituted for "attorneys" on authority of the Act of June 25, 1948, ch. 646, § 1, 62 Stat. 909. The words "any provision of" are omitted as unnecessary.

§ 516. Conduct of litigation reserved to Department of Justice

Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General.

(Added Pub.L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 613.)

REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 306, R.S. § 361, Sept. 3, 1954, ch. 1263, § 11, 68 Stat. 1229.

The section is revised to express the effect of the law. As agency heads have long employed, with the approval of Congress, attorneys to advise them in the conduct of their official duties, the first 56 words of R.S. § 361 and of former section 306 of title 5 are omitted as obsolete.

The section concentrates the authority for the conduct of litigation in the Department of Justice. The words "Except as otherwise authorized by law," are added to provide for existing and future exceptions (e.g., section 1037 of title 10). The words "an agency" are added for clarity and to align this section with section 519 which is of similar import. The words "as such officer" are omitted as unnecessary since it is implied that the officer is a party in his official capacity as an officer.

So much as prohibits the employment of counsel, other than in the Department of Justice, to conduct litigation is omitted as covered by R.S. § 365, which is codified in section 3106 of title 5, United States Code.

§ 517. Interests of United States in pending suits

The Solicitor General, or any officer of the De-

Abatements	6404
Action to Enforce Lien or to Subject Property to Payment of Tax	7403
Adjudication and Decree	7403(c)
Administrative Appeal of Liens	6326
Administrative Review	7429(a)
Amendments (Lien Validates)	6323(i)
Amount Not to be Assessed	6201(b)
Appointment and Supervision	7803(a)
Appraisal	6334(b)
Arrangement and Classification	7806(b)
Attempt to Evade or Defeat Tax	7201
Authority of Secretaries	6201(a)
Authority of Summon	7602(a)
Authority of Department of Treasury	7801
Authority of Internal Revenue Officer	7608
Authority of Secretary	6331(a)
Authority to Release Levy and Return Property	6343
Authorization (Civil Action) (Revenue Enforcement)	7401
Authorization	7805(a)
Awarding Costs and Certain Fees	7430
Citizenship Status	3121(e)
Civil Damages Unauthorized Disclosures	7431
Civil Actions for Refund	7422
Civil Damages Failure to Release Lien	7432
Civil Damages Unauthorized Collection	7433
Collection and Payment of Taxes	3501(a)
Collections Recovered	7423(l)



Constructive of Title	7806
Cross References	7806(a)
Damages	7402(c)
Damages and Costs	7423(2)
Definition of a Deficiency	6211
Definition (a) Wages	3401
Definitions	7701
Discharge of Property	6325(b)
Discharge of Liens	7425
Disclosure State Tax Officials/Local Law Enforcement	6103(d)
Effect of Certificate	6325(f)
Employees Incurring NO Income Tax Liabilities	3402(n)
Employment	3121(b)
Enforce Summons	7402(b)
Enforcement of Laws (A) Execute & Serve Search Warrants	7608(b)
Enforcement	7604(b)
Enforcement of Summons	7604
Enumeration 1-13	6334(a)
Erroneously or Illegally Assessed	6404(a)(2)(3)
Estimated Income Tax	6201(b)(1)
Examination of Books and Records	7602
Exclusions Gross Income	101
Execute and Serve Search Warrants	7608(a)
Exempt Amount-Wages, Salary, Other	6334(d)
Failure to Obey Summons	7210
False Information-Withholding	6682
Filing	7403(a)
Fraudulent Withholding Exemption	7205
General Rule (Time Expiration)	6501(a)

Gross Income	872
Issue Orders - Judgements - Processes	7402(a)
Joint Returns	6013(a)(l)
Joint Fiduciaries	6012(5)
Judicial Proceedings	7425(a)
Judicial Review	7429(b)
Jurisdiction - District Court	7609(h)
Jurisdiction	7604(a)
Jurisdiction of District Courts	7402
Levy and Distraint	6331
Lien for Taxes	6321
Lien Compliance	6323(f)(3)
Limitation - Criminal Prosecutions	6531
Limitations on Assessments and Collection	6501
Manner and Conditions of Sales	6335(e)
Method of Assessment	6203
Non-Attachment of Lien	6325(e)
Non-Resident Alien Status	871
Notice on Regulations Requiring Record, Statements, and Special Returns	6001
Notice of Sale	6335(b)
Notice of Deficiency	6212
Notice of Seizure	6335(a)
Notice of Demand for Tax	6303(a)
Notice	7609(a)
Offenses by Officers/Employees of U.S.	7214
Other Personnel	7803
Other Sales	7425(b)
Parties	7403(b)

Period of Lien	6322
Persons Required to Make Returns of Income	6012
Production of Books	6332
Property Exempt from Levy	6334
Property Used in Violation of Internal Revenue Laws	7302
Protest	7422(b)
Provisions for Title 28 USC Section 2410 (Quiet Title Action)	6327(5)
Public Inspection of Written Determinations	6110(b)(c)
Redemption by United States	7425(d)
Redemption of Property	6337
Release of Lien	6325(a)
Release of Lien or Discharge of Property	6325
Release of Levy and Notice of Release	6343(a)
Repayment to Officers/Employees	7423
Request for Prompt Assessment	6501(d)
Requirement of Notice Before Levy	6331(d)
Restriction on Examination of Records	7609(d)
Return of Property	6343(b)
Returns Prepared for or Executed by Secretary	6020(a)
Review Jeopardy - Levy Assessment Procedures	7429
Right to Intervene	7609(b)
Right to Request Sale of Seized Property	6335(f)
Rules and Regulations	7805
Sale of Seized Property	6335
Seizure and Sale	6331(b)
Service of Summons	7603
Signature Presumed Authentic	6064
Social Security	86
Special Procedures 3 <sup>rd</sup> Party Summonses	7609

Special Rules	7423(c)
Spouse Relieved from Liability in Certain Cases	6013(e)
Status of Returns	6020(a)
Stay of Proceedings	7422(c)
Successive Seizures	6331(c)
Suit Filed Prior to Claim	7422(a)
Taxes Shown on Return	6201(a)
Taxpayer Interview Procedures	7521
Time and Place of Sale	6335(d)
U.S. and American Employer	3306(J)
Unauthorized Disclosure of Information	7213
Venue	7429(c)
Voluntary Withholding Agreement	3402(p)
Wages	3121(a)
Which Section Applies	7609(c)
Willful Failure to File	7203
Withholding Allowances	3402(m)
Withholding	1414

## Statement by IRS Commissioner

**T. Coleman Andrews Served as IRS Commissioner for 3 years. He made this statement after resigning:**

↙  
"Congress went beyond merely enacting an income tax law and repealed Article IV of the Bill of Rights, by empowering the tax collector to do the very things from which that article says we were to be secure. It opened up our homes, our papers and our effects to the prying eyes of government agents and set the stage for searches of our books and vaults and for inquiries into our private affairs whenever the tax men might decide, even though there might not be any justification beyond mere cynical suspicion."

"The income tax is bad because it has robbed you and me of the guarantee of privacy and the respect for our property that were given to us in Article IV of the Bill of Rights. This invasion is absolute and complete as far as the amount of tax that can be assessed is concerned. Please remember that under the Sixteenth Amendment, Congress can take 100% of our income anytime it wants to. As a matter of fact, right now it is imposing a tax as high as 91%. This is downright confiscation and cannot be defended on any other grounds."

"The income tax is bad because it was conceived in class hatred, is an instrument of vengeance and plays right into the hands of the communists. It employs the vicious communist principle of taking from each according to his accumulation of the fruits of his labor and giving to others according to their needs, regardless of whether those needs are the result of indolence or lack of pride, self-respect, personal dignity or other attributes of men."

"The income tax is fulfilling the Marxist prophecy that the surest way to destroy a capitalist society is by *steeply graduated* taxes on income and heavy levies upon the estates of people when they die."

"As matters now stand, if our children make the most of their capabilities and training, they will have to give most of it to the tax collector and so become slaves of the government. People cannot pull themselves up by the bootstraps anymore because the tax collector gets the boots and the straps as well."

"The income tax is bad because it is oppressive to all and discriminates particularly against those people who prove themselves most adept at keeping the wheels of business turning and creating maximum employment and a high standard of living for their fellow men."

"I believe that a better way to raise revenue not only can be found but must be found because I am convinced that the present system is leading us right back to the very tyranny from which those, who established this land of freedom, risked their lives, their fortunes and their sacred honor to forever free themselves..."

## FIGURE 7-9

The IRS's *Legal Reference Guide For Revenue Officers* [MT 58 [10][0]-14] states:

332 (10-29-79)

58(10)0

### Constitutional Limitations

(1) During the course of administratively collecting a tax, an occasion may arise where service of a levy or notice of levy is not adequate to seize property of the taxpayer. However, it cannot be emphasized too strongly that constitutional guarantees and individual rights must not be violated. Property should not be forceably removed from the person of a taxpayer. Such conduct may expose a revenue officer to an action in trespass, assault and battery, conversion, etc. Larson v. Domestic and Foreign Commerce Corp., 337 U.S. 682 (1949), rehearing denied, 337 U.S. 682 (1949). Maule Industries v. Tomlinson, 224 F. 2d 897, (5th Cir. 1949). If there is reason to suspect a failure to honor a notice of levy or an interference with a levy, the matter should be referred for proper legal action against the offending party. Remedies available to the Government, as contained in the Code and other statutes, are more than adequate to cope with the problem.

(2) The Supreme Court in *G.M. Leasing Corp. v. United States*, 429 U.S. 336 (1977) held that warrantless entries into the private premises of a person by the Internal Revenue Service for the purpose of seizing property to satisfy a tax liability is a violation of that person's reasonable expectation of privacy under the Fourth Amendment to the Constitution. Before levies or seizures of property located on private premises are made, permission of the occupant of the premises on which the seizure is to take place must be obtained. If the occupant refuses to permit the entry, the matter should be referred to District Counsel so that a court order authorizing the entry may be obtained.

334.2 (10-29-79)

58(10)0

### Final Demand

Where a notice of levy is served upon a third party and there is no response within ten days, it is followed by service of a Final Demand (Form 668-C). IRC 6332(a) states that except as otherwise provided in subsection (b), (which contains a special rule for life insurance and endowment contracts) a person in possession of property or rights to property upon which levy has been made shall, upon demand, surrender such property. The demand is contained in the Notice of Levy (Form 668-A). A Notice of Final Demand (Form 668-C) is not required to be served under the Code, although use of the form as an administrative tool is generally uniform. In the event the Final Demand is not responded to, a suit will ordinarily be required to reach the property.

Form **6014**  
(Rev. 10-88)

### Authorization - Access to Third-Party Records For Internal Revenue Service Employees

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Internal Revenue Service employees will contact you, either in person or by mail.

Please give them access to all records, papers, memoranda, data, or information of any kind, however arranged, about your firm's transactions with or for any of us, starting with the tax year ending \_\_\_\_\_ and extending through the present. This authorization covers all transactions with any of us, whether under \_\_\_\_\_ *(Name)* \_\_\_\_\_ *(EIN or SSN)* or under those of a nominee, or with any of us among ourselves or with others (acting by partnership, trust, or otherwise). It applies to records or other items you received directly from us or for us or through others who prepared them about us.

Please give them access to all records, papers, memoranda, data, or information of any other kind, however arranged, about your firm's transactions with \_\_\_\_\_ *(Name of decedent)* \_\_\_\_\_ *(SSN)* who died \_\_\_\_\_ *(Date of death)*.

The IRS employees may examine these records and other items, copy or photocopy them, or use them in any other way in their examination.

Any questions about the authority granted by this form are to be resolved in favor of the IRS employees.

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Date)*



# Ohio Contractors Association

1313 Dublin Road • P.O. Box 959 • Columbus, Ohio 43216  
(614) 488-0724 • WATS (800) 282-1388 • FAX 614-488-0728



**SAFETY BULLETIN**

89-02 (AA)

December 8

## COPING WITH OSHA INSPECTIONS

With this bulletin, I will furnish some sample OSHA Inspection Policies and sample Inspection Denial Letters.

First, let's recap the absolute minimum reaction to an OSHA inspecting officer's arrival on your job site for an inspection.

The senior management representative on the site (foreman, superintendent, project manager, whoever) shall:

- (1) Meet the inspector.
- (2) Ask for and check the inspector's credentials (I.D., etc.).
- (3) Ask for and get the reason for the inspection (scheduled, complaint, or other).
- (4) Ask! Does the inspector have a warrant? If yes, get a copy to read to senior management.
- (5) Have inspector wait while you consult senior management.

**UNDER NO CIRCUMSTANCE LET THE INSPECTION PROCEED  
UNTIL THESE 5 STEPS HAVE BEEN TAKEN!**

These steps should be incorporated into a safety talk to be given at the beginning of each job and repeated as necessary due to employee turnover.

Now, with these steps insured we can proceed to the next decision. Do we want to require a warrant SOMETIMES (moderate policy) or ALWAYS (hard nosed policy)?

**"SOMETIMES" HAS A LOT TO RECOMMEND IT!**

It gives management a choice in each inspection, whether or not to require a warrant. Management will know the character of the local area OSHA office and can choose accordingly. They may be able to negotiate a limited inspection that would touch only specific areas rather than a wall-to-wall inspection. Varying the warrant requirement would tend to keep OSHA off

89-02 (AA)

-2-

December 8

balance and therefore perhaps more reasonable. Also, it could gain some time to get your act together and clean up some possible violations you might have overlooked.

**ALWAYS REQUIRING A WARRANT COULD BE YOUR BEST BET!**

It removes any doubts about what's expected at the lower management levels. It could cut down on facetious inspections. You know - "It's a dull day. Let's go twist XYZ Construction's tail." It also serves notice on OSHA. Don't tamper with the tiger!

As long as management has a chance for input BEFORE an inspection starts, you may want to have an ALWAYS policy and a chance to change your mind when informed of an impending inspection.

53

The only BAD decision you can make is NO decision! Do it now! Be prepared. Don't let the idea gather dust! Have it ready to put in place for next season's work!



# Exhibit (31)700-1

## Search Warrant Request Information Form

CC: \_\_\_\_\_

### SEARCH WARRANT REQUEST INFORMATION FORM

#### I. General Information

- (a) Name of taxpayer whose records were target of Search Warrant: \_\_\_\_\_
- (b) Criminal Investigation Division District initiating Search Warrant request: \_\_\_\_\_
- (c) District Counsel Office: \_\_\_\_\_
- (d) Reason for Counsel review of Search Warrant: [Check appropriate box or state other]
  - (1) Income Tax: \_\_\_\_\_
  - (2) Wagering Tax: \_\_\_\_\_
  - (3) Excise Tax: \_\_\_\_\_
  - (4) Other: \_\_\_\_\_
- (e) Date the Criminal Investigation Division requested review: \_\_\_\_\_
- (f) Date approved by District Counsel: \_\_\_\_\_
- (g) Date approved by the Criminal Tax Division: \_\_\_\_\_
- (h) Date approved by the Department of Justice: \_\_\_\_\_
- (i) Date Search Warrant executed: \_\_\_\_\_
- (j) Judicial District where Search Warrant was executed: \_\_\_\_\_

#### II. Premises are owned/controlled by: [Answer yes as appropriate or state other]

- |                           |                                   |                      |
|---------------------------|-----------------------------------|----------------------|
| (a) Protestor _____       | (b) Promoter _____                | (c) Preparer _____   |
| (d) Accountant _____      | (e) Lawyer _____                  | (f) Physician _____  |
| (g) Public Official _____ | (h) Clergy or church _____        | (i) News media _____ |
| Political Candidate _____ |                                   | official _____       |
| (j) Labor Union _____     | (k) Tax exempt organization _____ | (l) Other _____      |
| Official _____            | representative _____              |                      |

#### III. Comments regarding any other pertinent information: [Attach separate sheet if necessary]

This form was completed by: \_\_\_\_\_

Date: \_\_\_\_\_

# Exhibit (31)700-2

## Search Warrant

AO 93 (Rev. 5/85) Search Warrant ©

# United States District Court

DISTRICT OF \_\_\_\_\_

In the Matter of the Search of

(Name, address or brief description of person or property to be searched)

## SEARCH WARRANT

CASE NUMBER: \_\_\_\_\_

TO: \_\_\_\_\_ and any Authorized Officer of the United States

Affidavit(s) having been made before me by \_\_\_\_\_ Affiant who has reason to believe that  on the person of or  on the premises known as (name, description and/or location)

in the \_\_\_\_\_ District of \_\_\_\_\_ there is now concealed a certain person or property, namely (describe the person or property)

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before \_\_\_\_\_ Date

(not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime — 6:00 A.M. to 10:00 P.M.) (at any time in the day or night as I find reasonable cause has been established) and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to \_\_\_\_\_ U.S. Judge or Magistrate as required by law.

\_\_\_\_\_ at \_\_\_\_\_  
Date and Time Issued City and State

\_\_\_\_\_ Signature of Judicial Officer  
Name and Title of Judicial Officer

# Exhibit (31)700-2 Cont.

## Search Warrant

AO 93 (Rev. 5/85) Search Warrant

RETURN		
DATE WARRANT RECEIVED	DATE AND TIME WARRANT EXECUTED	COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH
INVENTORY MADE IN THE PRESENCE OF		
INVENTORY OF PERSON OR PROPERTY TAKEN PURSUANT TO THE WARRANT		
CERTIFICATION		
<p>I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Subscribed, sworn to, and returned before me this date.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">U.S. Judge or Magistrate</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">Date</p>		

# Exhibit (31)700-3

## Application and Affidavit for Search Warrant

AO 106 (Rev. 5/85) Affidavit for Search Warrant

# United States District Court

DISTRICT OF \_\_\_\_\_

In the Matter of the Search of \_\_\_\_\_

(Name, address or brief description of person or property to be searched)

### APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER: \_\_\_\_\_

I \_\_\_\_\_ being duly sworn depose and say:

I am a(n) \_\_\_\_\_ and have reason to believe

Official Title

that  on the person of or  on the premises known as (name, description and/or location)

In the \_\_\_\_\_ District of \_\_\_\_\_ there is now concealed a certain person or property, namely (describe the person or property)

which is (give alleged grounds for search and seizure under Rule 41(b) of the Federal Rules of Criminal Procedure)

in violation of Title \_\_\_\_\_ United States Code, Section(s) \_\_\_\_\_  
The facts to support the issuance of a Search Warrant are as follows:

Continued on the attached sheet and made a part hereof.  Yes  No

\_\_\_\_\_  
Signature of Affiant

Sworn to before me, and subscribed in my presence

\_\_\_\_\_  
Date

at

\_\_\_\_\_  
City and State

\_\_\_\_\_  
Name and Title of Judicial Officer

\_\_\_\_\_  
Signature of Judicial Officer

**Exhibit (31)700-5****Subpoenas Served Upon Government Employees And Officials in Criminal Tax Prosecutions****IRS MEMORANDUM**(Symbols)  
ABWhite

To: Mr. Finkelstein

From: Mr. White

Subject Subpoenas--Precedents Supporting Government Motion to Quash Criminal Tax Defendants' Subpoenas for Testimony and/or Documents of Government Official Absent Defense Showing of Present Entitlement

The trial judge, in his discretion, may quash or modify an "unreasonable or oppressive" subpoena issued pursuant to Rule 17, Fed. R. Crim. P. The cases discussed below illustrate that there are several bases upon which a Rule 17 subpoena may be, by means of a properly supported motion to quash, successfully attacked.

In *Bowman Dairy Co. v. United States*, 341 U.S. 214 (1951), the Supreme Court stated that Rule 17(c) is to be used in good faith to obtain evidence. The court further indicated, relying upon *United States v. Maryland and Virginia Milk Producers Assn.*, 9 F.R.D. 509 (D.D.C. 1949), that "Rule 17(c) was not intended to provide an additional means of discovery. Its chief innovation was to expedite trial by providing a time and place before trial for the inspection of the subpoenaed materials." Only documents admissible as evidence are subject to a Rule 17(c) subpoena. *Id.* at 221. The subpoena involved in *Bowman* included a "blunderbuss" clause which purported to require the production of "[any documents which] are relevant to the allegations or charges contained in [the] indictment, whether or not they might constitute evidence with respect to the guilt or innocence of any of the defendants." In holding that the clause was invalid, the Court characterized it as a "catch-all provision, not intended to produce evidentiary materials. [It] is merely a fishing expedition to see what may turn up." *Id.* at 221.

The Supreme Court has acknowledged that *Bowman* continues to be the definitive interpretation of the "unreasonable or oppressive" standard. *United States v. Nixon*, 418 U.S. 683, 699-700 (1974). The Court in *Nixon* also noted that:

[C]ases decided in the wake of *Bowman* have generally followed Judge Weinfeld's formulation in *United States v. Iozia*, 13 F.R.D. 335, 338 (S.D.N.Y. 1952), as to the required showing. Under this test, in order to require production prior to trial, the moving party must show: (1) that the documents are evidentiary and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (4) that the application is made in good faith and is not intended as a general "fishing expedition."

In *United States v. Ferguson*, 37 F.R.D. 6, 7 (D.D.C. 1965), the Government moved to quash or modify a subpoena duces tecum issued without leave of court and purporting to direct the United States Attorney to produce, prior to trial, numerous documents listed in a schedule seven and a half pages in length. Certain clauses in the list called for specific documents, while others were of a "dragnet nature." In granting the government's motion to quash, the court stated in accordance with *Bowman*, *supra* that:

Rule 17 is not a rule for discovery. The only discovery and inspection permitted in a criminal case is that provided by Rule 16, and it is of a very limited nature. The court realizes that at times this Rule has been used for purposes of additional discovery and some courts have acquiesced in this course. This was not the intention of the framers of the Rule.

*Ferguson* indicates that leave of court must be obtained, under Rule 17(c), before a subpoena duces tecum, returnable prior to trial, can be validly issued.

**Exhibit (31)700-5 Cont. (1)**

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**Subpoenas Served Upon Government Employees And Officials in Criminal Tax Prosecutions****IRS MEMORANDUM**

In *United States v. Haug*, 21 F.R.D. 22,26 (N.D. Ohio 1957, *cert denied*, 365 U.S. 811 (1961), subpoenas issued under Rule 17(c) called for the production of:

[A]ll books, papers and documents obtained by or for the United States Attorney if they have been presented to the Grand Jury or are to be offered in evidence and also all Federal Bureau of Investigation reports, memoranda and communications pertaining to the investigation and prosecution of the defendants.

The court, in granting the government's motion to quash observed that:

No specific documents or papers were described in the subpoena or motion.

This proceeding under Rule 17 is purely a fishing expedition.

The defendants apparently want to examine the Government's files in the hope of finding something which may aid them in their defense.

Rule 17 was never intended as a means of discovery, but merely to obtain, prior to trial, documents in the possession of the Government which could have been subpoenaed from others. Its purpose was to shorten the trial.

See also *United States v. Schembari*, 484 F.2d 931, 936 (4th Cir. 1973), wherein the court evidently recognized that the defendant's need was real, yet held that there could be no "alteration of the basic concept that Rule 17 is not a discovery device" and sustained the trial court's refusal to order, as requested by the defense, the issuance of "John and Jane Doe" subpoenas duces tecum directed to several newspaper and television organizations and requiring the production of "pictorial recordings, records or notes." Since the defense was able neither to provide the names of the individuals to be subpoenaed nor to describe with specificity the materials sought, the requirements of Rule 17 were held not to have been met. Compare: *United States v. Daly*, 481 F.2d 28, 30 (8th Cir. 1973), *cert. denied*, 414 U.S. 1064 (1973), holding that the trial court properly quashed a subpoena duces tecum, served upon the Internal Revenue Service, which was "clearly overboard, unreasonable, oppressive, and lacking in particularity and relevance." The defendant's conviction for failure to file, in violation of 26 U.S.C. § 7203, was affirmed.

In another failure to file prosecution, *United States v. Bennethum*, 21 F.R.D. 227, 230, 231 (D. Del. 1957), the defendant sought by means of Rule 17(c) to obtain, *inter alia*, his own written or recorded statements, transcripts or records of testimony taken at certain conferences, and:

All records, documents, correspondence and forms showing instances during the years 1950 through 1957 wherein the office of the District Director of the Internal Revenue Service . . . has misplaced, mislaid, or lost records, files, or returns of taxpayers.

The court, relying upon *Bowman*, refused these requests and stated, concerning the clause quoted, that it:

[The request] must be denied simply because it is a blanket demand amounting to little more than a fishing expedition to ascertain whether there exist in the [District Director's Office] records showing that taxpayer's files have been lost or misplaced on one or more prior occasions.

In *United States v. Dubrow*, 201 F. Supp. 101, 202 (D. Mass. 1962), a wagering tax case, the defense alleged that the Government conspired to deprive him of a fair trial by procuring the production of an inflammatory documentary film broadcast by C.B.S. television. On behalf of the defense, subpoenas duces tecum were served upon the Attorney General and the Commissioner of Internal Revenue, calling for the production of:

**Exhibit (31)700-5 Cont. (2)****Subpoenas Served Upon Government Employees And Officials in Criminal Tax Prosecutions****IRS MEMORANDUM**

All records relating to the preparation and execution of the arrests made at the Swartz Key Shop . . . on September 29, 1961, and also all the correspondence with the CBS-TV Network . . . that relates to preparation, filing and presentation of the CBS-TV documentary "BIOGRAPHY OF A BOOKIE JOINT."

The court granted the Government's motions to quash and observed that a subpoena, under Rule 17(c), must "strike for the jugular." It must have a "precise target" and will be quashed where it is merely a "fishing expedition." *Id.* at 104. Documents subpoenaed must be relevant to a valid defense. Judge Wyzanski observed that "much too little has been here alleged or proved by defendant, for this court now to permit a search on the wholly unsupported assumption that public authorities conspired to deny the defendant a fair trial." *Id.* at 104.

Similarly, *United States v. Berrios*, 501 F.2d 1207 (2nd Cir. 1974), indicates that Rule 17(c) may not be used to obtain documents relating to a defense which has no "colorable basis." Berrios, a convicted felon, was under indictment for holding a union office in violation of 29 U.S.C. § 504. He attempted to defend on an apparently frivolous claim of selective prosecution and sought to obtain a letter written by the prosecutor to his superiors within the Department of Justice. The trial judge considered that the defendant was entitled to the memorandum, ordered its disclosure, and dismissed the indictment when the Government refused to comply. The Government appealed.

The Second Circuit acknowledged that the trial judge has discretion to issue or refuse to issue, under Rule 17(c), a subpoena duces tecum. The order dismissing the indictment, however, was vacated and the case remanded, chiefly because the trial judge had ordered production of the entire memorandum; the order should have been limited to those portions of it which were relevant to the defense asserted. *Id.* at 1213. The Second Circuit also regarded the defendant's "meagre (sic) preliminary showing" as inadequate to satisfy the relevancy requirement of Rule 17(c), and noted that:

[T]he defendant appears frankly to have embarked upon a fishing expedition. The effect [of enforcing the subpoenas] could be to encourage use of the defense of selective prosecution, however baseless, as a means of obtaining discovery to which the defense would not otherwise be entitled.

That the relevance hurdle must be cleared as an absolute prerequisite to enforcement of a subpoena duces tecum is illustrated with equal clarity by *United States v. Purin*, 486 F.2d 1363, 1368 (2nd Cir. 1973). Purin appealed his conviction of a narcotics offense on the grounds, *inter alia*, that the trial judge improperly granted a motion to quash a subpoena duces tecum served upon the United States Immigration and Naturalization Service calling for its files on a co-participant in the crime charged. The trial judge's ruling was based upon a determination that the files sought were not sufficiently relevant. The Second Circuit held that the trial judge properly exercised his discretion in refusing "to permit a fishing expedition," and again stated that "a subpoena duces tecum in a criminal case is not intended as a means of discovery." Accord: *Simms v. United States*, 248 F.2d 626 (D.C. Cir. 1957), *cert. denied*, 355 U.S. 875, involving a subpoena duces tecum served upon the Internal Revenue Service for the production of records relating to an investigation of one of the appellants. The trial court was held to have correctly quashed the subpoena, and the District of Columbia Circuit stated that "the relevance of the records [subpoenaed] was far too removed from the dispute [to warrant enforcement of the subpoena]." *Id.* at 629. See also *United States v. Marchisio*, 344 F.2d 653, 669 (2nd Cir. 1965), holding that Rule 17(c) could not be used by the defense to obtain from the Government an accountant's memorandum proposing bookkeeping and accounting procedures, absent a showing of present relevancy and admissibility. *Id.* at 669. Compare: *Gilmore v. United States*, 256 F.2d 565 (5th Cir. 1958). The *Gilmore* Court noted that a subpoena duces tecum is not a "discovery weapon" and held that the trial judge, in a narcotics prosecution, did not err in granting the Government's motion to quash a subpoena duces tecum served upon a Federal Narcotics Agent, and calling for:

All currently effective regulations, orders, bulletins, field manuals, policy letter or other matters of a directive nature promulgated by your superiors in the Federal Bureau of Narcotics, however styled or described within that Bureau, which are in your possession or subject to your control. 256 F.2d at 567.

**Exhibit (31)700-5 Cont. (3)**

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**Subpoenas Served Upon Government Employees And Officials in Criminal Tax Prosecutions****IRS MEMORANDUM**

Its issuance apparently "was out of a hope that something helpful might turn up," and no showing was made that the documents sought were relevant or material to the issue of guilt or innocence of the defendant. *Id.* at 568. See also *United States v. Schine*, 126 F. Supp. 464 (W.D.N.Y. 1954.) In *Schine*, a subpoena duces tecum called for copies of correspondence, memoranda, reports and other material "usable" by the defendant. The Government's motion to quash was granted since it appeared that the materials sought might have been obtained from other sources or lacked relevance.

In *United States v. Boyle*, 338 F. Supp. 1025, 1027 *et seq.* (D.D.C. 1971), subpoenas duces tecum, calling for the production of "certain documents" related to a selective prosecution defense, were served upon high-ranking officials of the Department of Justice and, among others, upon eighteen assistants to various members of Congress. Noting that Rules 16 and 17 do not permit "fishing expeditions" and that the defendant had failed to make the requisite "clear showing of relevance," the trial court granted the Government's motion to quash every subpoena issued. *Id.* at 1028.

The Fifth Circuit, in *United States v. Johnson*, 495 F.2d 1097, 1102 (1974), held that the trial court did not err in granting the Government's motion to quash subpoenas duces tecum (calling for tax returns of third parties) served upon three employees of the Internal Revenue Service. The defendant, a tax return preparer, was convicted of violating 26 U.S.C. § 7206(2) by assisting in the preparation of numerous fraudulent returns. The appellate court affirmed, holding that it was a proper exercise of the trial court's discretion to quash the subpoenas where it appeared that the defendant's chief motive was not to examine the particular returns sought but to question the named parties concerning statements made to them by Internal Revenue Service agents, and the named parties had no "demonstrable connection" with the case.

It should be noted that the mere possibility that subpoenaed materials may become relevant at some time in the future will not satisfy the relevancy requirement of Rule 17(c). See 4 Barron, *Federal Practice and Procedure*, § 2044, and *United States v. Murray*, 297 F.2d 812, 821-822 (2nd Cir. 1962), *cert. denied*, 369 U.S. 828 (1962). In *Murray*, the defendant's conviction for income tax evasion was affirmed and the Second Circuit held that the trial judge did not err in refusing, under Rule 17(c), to permit the defendant to obtain statements which had not been shown to be "evidentiary and relevant." *Id.* at 820. The Second Circuit has stated in another case that:

Unlike the rule in civil actions a subpoena duces tecum in a criminal action is not intended for the purpose of discovery; the document sought must at that time meet the tests of relevancy and admissibility. *United States v. Marchisio*, 344 F.2d 653, 669 (2nd Cir. 1965).

The Government's motion to quash a subpoena duces tecum served upon the Director of the Selective Service System was granted in *United States v. Camp*, 285 F. Supp. 400 (N.D. Ga. 1967), where the court determined that the materials sought *i.e.*, "any matrix light box, pen, or other mechanical device" used to produce facsimiles of signatures, were not relevant to any tenable theory of defense. Camp, a conscientious objector, was under indictment for failing to report to his draft board to receive instructions to report for civilian work. He urged a defense predicated upon an alleged procedural irregularity in an order assigning him to work at a particular hospital. While the subpoenaed materials may have been relevant to the issue of the regularity of the order, the crime charged was complete when he failed to report to receive it. The defense relied upon, therefore, was altogether without merit and the subpoena was properly quashed.

The defendant in *United States v. Frank*, 23 F.R.D. 145 (D.D.C. 1959), was indicted for violation of the Foreign Agent's Registration Act and in sweeping language sought to obtain "such other and further evidence which is material to the defense, is admissible, and presently unknown [to him]." In holding that the clause quoted failed to meet the requirements of Rule 17(c), Judge Youghdahl observed that:



**Exhibit (31)700-5 Cont. (4)**

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**Subpoenas Served Upon Government Employees And Officials in Criminal Tax Prosecutions****IRS MEMORANDUM**

In the first place, the court does not know what evidence is unknown to the defendant and the defendant has not sought to enlighten the court. Secondly, this rule does not permit blunderbuss inspection of the Government's evidence in an attempt to learn something not known; it is not a discovery provision. Moreover, the requirements or specificity of the documents or objects sought has here not been met. Nor has good cause or an evidentiary connection been shown. [*Id.* at 147, citations omitted.]

*De Casaus v. United States*, 250 F.2d 150, 152 *et seq.*, (9th Cir. 1957), involved a "blanket" demand made by the defense, during the trial, to search through more than 50,000 "Customs records of export declaration." A Department of Agriculture regulation required these records to be kept secret, in order to prevent unfair competition among shippers. The trial court refused the demand as "too broad and all-inclusive" and the defendant, charged with making a false statement to an officer of the Commodity Credit Corporation, was convicted. The Ninth Circuit affirmed, noting:

Under Rule 17(c) the trial court may [quash] "if compliance would be unreasonable or oppressive." Here a demand made midway of the trial, to inspect each of some 60,000 documents, which would involve suspension of the trial for that purpose, would appear to be a demand which the court in its discretion could properly find unreasonable. After all, appellant made no showing to indicate that his proposed search was likely to turn up any specified documents.

Compare: *United States v. Echles*, 222 F.2d 144 (7th Cir. 1955), wherein the defendants appealed from their convictions under 18 U.S.C. § 215 for accepting bribes to influence the selection of applicants for positions in the Post Office Department. On appeal it was held that the trial court did not err in quashing, as "unreasonable and oppressive," subpoenas issued under Rule 17(c) and requiring the production of a "carload" of personnel jackets and various other materials.

# Exhibit (31)800-4

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## Order No. 158

Effective date: September 23, 1994



### Seizure and Forfeiture of Property under the Money Laundering Control Act of 1986 and the Bank Secrecy Act

Pursuant to the authority granted to the Commissioner of Internal Revenue by Treasury Directive 15-42,

1. The Chiefs, Criminal Investigation, are delegated:
  - a. investigatory authority over violations of 18 U.S.C. Sections 1956 and 1957 where the underlying conduct is subject to investigation under Title 26 or under the Bank Secrecy Act, as amended, 31 U.S.C. Sections 5311-5326 (other than violations of 31 U.S.C. Section 5316);
  - b. seizure authority over violations of 18 U.S.C. Section 981 relating to violations of:
    - (1) 31 U.S.C. Sections 5313 and 5324(a); and
    - (2) 18 U.S.C. Sections 1956 and 1957 which are within the investigatory jurisdiction of IRS pursuant to paragraph 1.a. above; and
  - c. seizure authority relating to any other violation of 18 U.S.C. Section 1956 or 1957 if the bureau with investigatory authority is not present to make the seizure. Property seized under 18 U.S.C. Section 981 where investigatory jurisdiction is solely with another bureau not present at the time of the seizure shall be turned over to that bureau.
  - d. approval authority to complete the forfeiture action and recommend administrative forfeitures negotiated by the U.S. Attorney, under the terms and conditions elicited in Section III, Directive 91-15 issued by the Department of Justice, Executive Office for Asset Forfeiture. This authority pertains only to administrative forfeitures, where cost and claim bonds have been filed, and an agreement is subsequently negotiated by the U.S. Attorney, wherein the claimant withdraws the claim and the case is referred back to the Service, which will administratively forfeit the property according to the terms of the agreement. The Chief will make a recommendation to the district director of the key district for Criminal Investigation on the resulting administrative forfeiture.
  - e. to sign title and transfer documents to transferees or purchasers of forfeited property, including real property.
2. The authority granted in paragraphs 1a through 1c may be redelegated on a case-by-case basis no lower than special agent.
3. Special agents are authorized:
  - a. to notify any other Treasury bureau of an investigation if, at any time during an investigation under this order, evidence is discovered of a matter within the jurisdiction of that other bureau, and to invite the participation of that bureau in the investigation.
  - b. to estimate the value of the seized property and if valued at \$500,000 or less, to cause a list to be prepared and to appraise or cause appraisal to be obtained and to attest to such list and appraisal and to publish notice; and
  - c. to cause notice of sale of seized property to be placed in accordance with Federal regulations.
4. The Assistant Commissioner (International), district directors of key districts for Criminal Investigation and the Director, Taxpayer Service and Compliance, in the International function are authorized:
  - a. to make determinations under Federal regulations concerning type and conditions of cost bonds;
  - b. to exercise the authority of the Commissioner concerning the disposition of property seized under this order, including authority concerning the disposition of perishable goods;
  - c. to execute the declaration of forfeiture showing that personal property has been forfeited to the United States; and
5. The authority delegated in paragraph 4 may not be redelegated.

## Miscellaneous Provisions

**(31)710** (8-20-91)

### Legal Assistance to the Criminal Investigation Division During Investigation

**(1) Prereferral Legal Assistance.**

(a) **Policy.** It is the policy of the Office of Chief Counsel that attorneys will be available, upon request, at any stage of an investigation for discussions with the Criminal Investigation Division personnel for the purpose of rendering legal advice.

(b) **General.** Prereferral legal assistance is solely advisory in nature and in no way eliminates or abridges established procedures governing independent review by Counsel of Criminal Investigation Division recommendations. Its purpose is to provide assistance and guidance regarding legal issues which surface during an investigation. Usually Counsel attorneys will not review the entire case file at this stage, and no decision or commitment that the case meets Counsel's standards for referral for prosecution will be made on behalf of Counsel's Office. Prereferral legal assistance is not intended to be a substitute for the case selection function of the District Director or for the thorough legal and evidentiary review of referred cases by Counsel attorneys, with supervisory concurrence required. See CCDM (31)210(5) regarding maintenance of prereferral legal assistance files.

(2) **Designation of Attorney as Contact Point.** District Counsel will designate an attorney with criminal experience as the contact attorney for each Criminal Investigation Division group in the District(s). The number of attorneys receiving such assignments will depend upon the staffing of the District Counsel office.

**(3) Undercover Assistance.**

(a) **General.** The Criminal Investigation Division engages in undercover operations for the purpose of securing information and/or evidence relative to an investigation. Undercover operations are classified as either Group I or Group II. See Chapter 900, IRM § 9781, Handbook for Special Agents.

(b) The Criminal Investigation Division is encouraged to consult District Counsel in all undercover operations and, frequently, those requiring approval of the Assistant Commissioner (Criminal Investigation) are conditioned upon District Counsel's involvement in the review process.

(c) When District Counsel is consulted in an undercover operation they should provide meaningful assistance by arranging to attend

all pre-operational and operational meetings, as well as being available to render needed legal advice on all aspects of the operation.

**(31)720** (4-14-97)

### Searches and Seizures

(1) **Search Warrants.** Search warrants, if properly utilized, can result in obtaining essential evidence. However, the conducting of a search is particularly intrusive. Consequently, search warrants should be carefully reviewed.

**(2) Search Warrants Generally.**

(a) Generally, search warrants to obtain evidence of Title 26 offenses must be reviewed by Counsel and referred to the Department of Justice for authorization.

(b) Search warrants are recognized as viable investigative tools in potential criminal tax cases. However, it is the policy of the Internal Revenue Service and the Department of Justice that search warrants will be utilized with restraint and only in significant tax cases. The significance of a tax case may be determined by a consideration of such factors as:

- 1 The amount of taxes due,
- 2 The nature of the fraud,
- 3 The need for the evidence to be seized, and
- 4 The impact of the potential criminal tax case on voluntary compliance with the revenue laws.

Prior to utilizing a search warrant, consideration should be given to the use of less intrusive means for obtaining the evidence (*i.e.*, administrative summons).

(c) Pursuant to Tax Division Directive No. 84-52, the Department of Justice delegated, in many instances, the authority to approve certain Title 26 search warrants to United States Attorneys. The Department of Justice retained for Tax Division review search warrants concerning:

- 1 Warrants directed at the premises owned, controlled or under the dominion of a subject or target of an investigation who is:
  - a An accountant,
  - b A lawyer,
  - c A physician,
  - d A local, state, federal, or public official or political candidate,
  - e A member of the clergy,

f A representative of the electronic or printed news media,

g An official of a labor union, or

h An official of an organization deemed to be exempt under I.R.C. § 501(c)(3); and,

2 Warrants involving disinterested third parties (see 28 C.F.R. § 59.1 *et seq.*)

**(3) Counsel Responsibility.**

(a) Counsel will be required to review and approve all Title 26 search warrants; therefore, Counsel attorneys should take an active role in assisting the Criminal Investigation Division in the preparation of the warrant and affidavit. Except for warrants set forth in 1 and 2 above, if approved, the search warrant will be submitted directly to the United States Attorney for final approval. For administrative search warrants encompassing 1 and 2 above, which require approval of the Assistant Chief Counsel (Criminal Tax) and the Department of Justice, Tax Division, see CCDM (31)720(4), below. In view of the sensitivity of Title 26 search warrants, Counsel must make a complete and detailed review of the warrant and supporting documentation. The Assistant Chief Counsel (Criminal Tax), will be available for consultation with District Counsel, if desired.

(b) District Counsel and the Criminal Investigation Division should be aware that the review at both the Criminal Tax Division and the Department of Justice will be a *de novo* review of the warrant for legal sufficiency and policy concern implications. Since all warrants reviewed by the Department of Justice will likely involve sensitive issues, adequate time for review and processing should be allowed by the Criminal Investigation Division in planning for the ultimate execution of the warrant.

(c) In all cases, District Counsel should ensure that the three-pronged probable cause test is met. In this connection, the facts should clearly establish that there is probable cause to believe that a tax crime has been committed, that the evidence sought is seizable by virtue of being connected with the crime, and that the evidence sought is on the premises to be searched.

(d) The following is a suggested format for drafting Title 26 affidavits and warrants:

1 The premises to be searched should be drafted with specificity;

2 The property to be seized should be described as specifically as possible and the relationship of any items described to the alleged violations should be explained in the affidavit;

3 The affidavit should be logically divided with paragraphs consecutively numbered;

4 The affidavit should incorporate by reference any diagrams, photographs or other exhibits that bear on probable cause;

5 The affidavit should set forth the affiant's experience and summarize the illegality and the sources of information and should state that the affiant has probable cause to believe that certain crimes have occurred and that certain specified evidence of those crimes is on the premises;

6 Affidavits should address the credibility and reliability of any informants;

7 If affidavits are based on undercover contacts, information relative to these activities should be made available for review;

8 The affidavit should identify all targets;

9 The affidavit should set forth a description of the unlawful activities in a factual manner (not in a conclusory fashion) followed by a factual discussion of location of the evidence and its relationship to the crime;

10 Information in the warrant should be corroborated with records, tax returns, and other documents to the extent appropriate; and

11 CCDM Exhibits (31)700-2 and (31)700-3 are forms to be used for a search warrant on written affidavit and affidavit for a search warrant.

(e) A report regarding search warrant activity shall be sent to the Criminal Tax Division. Search Warrant Request Information Forms are to be used for report purposes. See CCDM Exhibit (31)700-1. An initial report, with a copy of the warrant, which is as complete as possible, should be forwarded following the execution of the search. A second and final follow-up report with all pertinent information, should be forwarded upon closing of the criminal case.

(f) An exception to the procedures set out in CCDM (31)720(2)(b) above will arise in cases where there is a pending I.R.C. § 7408 action against the target of the proposed search. I.R.C. § 7408 is a civil action to enjoin promoters of abusive tax shelters, etc.

1 In cases where a I.R.C. § 7408 action is pending with the Field Service Division, Counsel will telephonically coordinate the matter with the Assistant Chief Counsel (Criminal Tax), prior to final approval of the search warrant.

2 Where an I.R.C. § 7408 action has been referred to the Department of Justice, Counsel will telephonically coordinate the matter with the Office of Special Litigation, Department of Justice, Tax Division, prior to final approval of the warrant.

(g) Search warrants in wagering cases are unaffected by the above delegation.

(h) The Department of Justice, Tax Division, has determined that search warrants in I.R.C. § 7212(b) cases may be directly referred by Counsel to the United States Attorney.

(i) The Department of Justice policy on requests to search the premises of attorneys engaged in the practice of law on behalf of clients sets forth guidelines applying to prosecutors involved with attorney search warrants, See USAM § 9-2.161(b) (Oct. 11, 1995). Counsel attorneys assisting in the preparation of a search warrant application for the premises of an attorney should stand by to assist CID and the United States Attorney in implementing the guidelines.

1 In sum, the guidelines reduce intrusion into privileged material and ensure investigators and prosecutors are not unnecessarily exposed to privileged information. To this end, the guidelines call for the establishment of a search team consisting of personnel not involved in the underlying investigation (the "privilege team"), and an attorney to advise the team.

2 Should the United States Attorney so request, and to the extent possible, Counsel should provide an attorney to act as the privilege team attorney. The privilege team attorney is responsible for advising the privilege team, reviewing all material suspected of falling within the work product rule or attorney-client privilege, and determining which materials should be forwarded to the investigating agents. The privilege team attorney may not participate in the search.

**(4) Administrative Search Warrants Requiring the Approval of the Assistant Chief Counsel (Criminal Tax).**

(a) In the case of an administrative search warrant that requires prior approval of the Criminal Tax Division, District Counsel will submit the warrant for final review and approval to the Assistant Chief Counsel (Criminal Tax), who will review the warrant for legal sufficiency and policy concern implications. District Counsel should only submit warrants for approval that they agree are legally sufficient. The completed search warrant form and attachments, the completed affidavit form and the supporting affidavit, along with a memorandum from District Counsel detailing the legal issues raised in the case and the need for the warrant should be included for review.

(b) If the complete search warrant package is not forwarded, review by the Criminal Tax Division will be delayed pending receipt of the additional information.

(c) **Administrative Procedures for Re-submitting a Declined Search Warrant to the Assistant Chief Counsel (Criminal Tax) for Reconsideration.** An administrative search warrant submitted to the Assistant Chief Counsel (Criminal Tax) for approval and returned to the submitting District Counsel office for forwarding to the Department of Justice, Tax Division; may be approved; returned to the submitting District Counsel for supplemental development and/or information prior to being forwarded to the Department of Justice; or, declined.

1 If a search warrant is returned for supplemental development and/or information, the District Counsel may submit the search warrant directly to the Department of Justice only after making the revisions as recommended by the Assistant Chief Counsel (Criminal Tax). Although involvement of the Assistant Regional Counsel (Criminal Tax) is encouraged, it is not required.

2 If a search warrant and/or the incoming package is determined to be insufficient and thus, the Assistant Chief Counsel (Criminal Tax) declines to approve the search warrant, the search warrant will be returned to the District Counsel.

a The Assistant Chief Counsel (Criminal Tax) will designate, in writing, the reasons for declining to approve the search warrant.

b Should the District Counsel choose to resubmit the declined search warrant to the Assistant Chief Counsel (Criminal Tax) for reconsideration, the search warrant must first be approved for resubmission by the Assistant Regional Counsel (Criminal Tax).

c The search warrant, together with a memorandum of approval for resubmission signed by the Assistant Regional Counsel (Criminal Tax), must be transmitted by the Assistant Regional Counsel (Criminal Tax) to the Assistant Chief Counsel (Criminal Tax).

**(5) Other Federal Agencies, State and/or Local Law Enforcement Investigation Tools.** In some instances, evidence may be presented to the Internal Revenue Service by other federal agencies, State or local authorities which obtained the evidence through another federal agency, State or local search or arrest warrant, pen register or wiretap. Before the Criminal Investigation Division relies upon and utilizes this evidence, the advice of District Counsel should be requested as to the admissibility of the evidence in a subsequent criminal tax prosecution.

**(31)730** (12-11-89)  
**Subpoenas Served Upon  
Government Officials**

(1) **Background.** The use by criminal tax defendants of subpoenas of Government officials, such as the Secretary of the Treasury, the Commissioner of Internal Revenue, and others at various levels has steadily increased. In virtually all of these cases, the official involved has no personal knowledge relating to the case or to any valid defense which the accused may have raised. Reams of records and documents (often sensitive and/or extremely difficult to assemble and compile) have been subpoenaed, notwithstanding that their production would contribute nothing to the court's determination of the defendant's guilt or innocence. Under these circumstances, the subpoenaed official should not be compelled to testify and a motion to quash, pursuant to *Fed. R. Crim. P.* Rule 17, made by the United States Attorney is appropriate.

**(2) Procedure.**

(a) Counsel should ensure that all criminal tax attorneys be prepared to assist in drafting a motion to quash, if so requested by the United States Attorney, when a Government official with no personal knowledge of the case has been subpoenaed in a criminal tax prosecution. See CCDM Exhibits (31)700-4, (31)700-5, and (31)700-6.

(b) Criminal tax attorneys assisting in the drafting of such a motion should be prepared to obtain a supporting affidavit from the subpoenaed official disclaiming any involvement in the processing of the case or any relevant information concerning it.

**(31)740** (12-11-89)  
**Avoiding the Use in Criminal Tax  
Investigations of Testimony of a  
Target Immunized During  
Bankruptcy Proceedings**

**(1) Immunized Testimony.**

(a) Under the now repealed Bankruptcy Act of 1898, the testimony of a bankrupt (or the individual representative of a corporate bankrupt if directed by the court) was automatically immunized pursuant to a grant of use immunity conferred pursuant to Section 7(a)(10) of that act.

(b) Under current bankruptcy law, however, there is no longer an automatic grant of immunity. Instead, persons required to submit to examination to testify, or to provide information in a bankruptcy proceeding may be granted statutory use immunity under 18 U.S.C. § 6001 *et seq.* 11 U.S.C. § 344.

1 Recent court decisions recognize the applicability of the Title 18 immunity provisions to bankruptcy proceedings. See, e.g., *Butcher v. Bailey*, 753 F. 2d 465 (6th Cir. 1985).

2 The proper procedure for securing a grant of immunity in bankruptcy cases is set forth in *In re Minton Group*, 43 BR 705, 708-709 (Bankr. S.D.N.Y. 1984).

3 Immunity may be granted to any witness in a bankruptcy proceeding, including the bankrupt. Where a grant of statutory use immunity has been obtained in a bankruptcy proceeding, an order of the United States district court for the judicial district in which the bankruptcy proceedings were (or may be) held, issued under 18 U.S.C. § 6003 at the request of the United States Attorney for such district, should be a part of the record of the bankruptcy proceeding.

**(2) Prohibited Use of Immunized Testimony.**

(a) Neither the testimony provided by an immunized witness, nor any leads therefrom, not the testimonial aspects of any immunized act of production on the part of the witness, "may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order." 18 U.S.C. § 6002.

(b) Accordingly, the immunized testimony and testimonial acts of production, as well as any leads therefrom, of a witness should not be used in the investigation of criminal tax cases wherein that immunized bankruptcy witness is likely to be a defendant.

(c) Where a bankrupt or individual representative of a corporate bankrupt testified under former 11 U.S.C. § 25(a)(10) and obtained an automatic grant of use immunity under the Bankruptcy Act of 1898, his/her testimony would not be used in the investigation of criminal tax cases in which he/she was likely to be a defendant. This was because, in any criminal tax case in which the defendant was a person who had obtained a grant of use immunity during the course of a bankruptcy proceeding, the government would have been required to satisfy the "heavy burden" of establishing that no part of its proof was tainted and that all of its evidence was derived from sources independent of the immunized testimony of the defendant. See *Kastigar v. United States*, 406 U.S. 441 (1972).

**(3) Predetermination of the Existence of a Grant of Immunity.**

(a) Prior to accessing and reviewing the contents of a bankruptcy case file, there should be a determination made as to whether there has been grant of immunity to the target or a likely target of a criminal tax investigation.

# Exhibit (31)700-4

## Subpoenas Served Upon Government Officials/Employees in Criminal Tax Provisions

(Symbols)

Honorable  
Assistant Attorney General  
Tax Division  
Department of Justice  
Washington, D.C. 20530

In re: Subpoenas Served Upon [Name] [Title] in the Criminal Tax Prosecution of [Name of defendant]

Dear [Name]:

We are in receipt of a subpoena served upon [Name], [Title] ordering him/her to testify in the criminal tax prosecution of [Name of defendant]. In this matter, the subpoenaed official/employee has had no personal information concerning the case or any possible defense [or in the case where the subpoenaed official/employee is familiar with the case the language should read that the "subpoenaed official/employee has no information which will be relevant to the defense of this matter."] Under these circumstances, the subpoenaed official/employee should not be compelled to testify, and a motion to quash, pursuant to Fed.R.Crim.P. Rule 17, is appropriate.

When subpoenas are served upon government officials/employees in future criminal tax prosecutions, it is requested that a motion to quash be filed by the government attorney assigned to the case. Upon request, the appropriate Counsel office will assist in drafting the motion to quash and, if necessary, obtain a supporting affidavit from the subpoenaed official disclaiming any personal involvement in processing the case or any relevant information concerning it.

Sincerely,

NAME  
Regional Counsel

By:

\_\_\_\_\_  
NAME  
District Counsel  
[City]

" 9/13/ " Grand Jury

# “CID”

## The Criminal Investigative Division

### Internal Revenue Manual 1100

### Section 1132.75

### Criminal Investigative Division

**“The Criminal Investigative Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws involving United States citizens residing in foreign countries and non-resident aliens subject to federal income tax filing requirements.”**

Where in the USC, CFR’s or the United States Statutes at Large does it state that the CID can investigate citizens **NOT** “residing in foreign countries”, but living and working in the United States?

If CID cannot show authority over citizens **NOT** residing in foreign countries, then they can only be clearly exceeding the limited authority defined under the USC and therefore operating unlawfully. We can only conclude, after a careful study and understanding of what has been made available to us through the USC and related IRM’s that, “CID has no legal authority over the domestic affairs and activities of citizens”.

IF you have documented proof to the contrary, please send it to us immediately!

The **IRM 1100** can be ordered from VIP, Box 463, Owensville, Ohio 45160 for \$80. (513)641-2221

20



sible for the examination of certain offers in compromise, informants' claims for reward that have been referred by service centers and related activities. The examination program includes the classification of returns for field and office examinations, participation with special agents in the conduct of tax fraud investigations, and is responsible for furnishing personnel to provide assistance during the filing period to taxpayers living abroad. Plans, directs and supervises the overseas examination program. Directs programs for the exchange of estate and gift tax data with foreign governments under the tax conventions. Is responsible for the maintenance of good relationships with regions and districts and is responsive to their requirements for assistance in the foreign area.

**1132.75 (4-21-89)**  
**Criminal Investigation Division**

*C/R*  
The Criminal Investigation Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws (other than those excepted in IRM 1112.51), as well as applicable Title 31 and Title 18 violations per the IRM, involving United States citizens residing in foreign countries and nonresident aliens subject to Federal income tax filing requirements by developing information concerning alleged criminal violations thereof, evaluating allegations and indications of such violations to determine investigations to be undertaken, investigating suspected criminal violations of such laws, recommending prosecution when warranted, and measuring effectiveness of the investigation processes. Assists other Criminal Investigation offices in special inquiries, secures information from foreign countries relating to tax matters under joint investigation with district offices involving United States citizens, including those involved in racketeering, stock fraud and other illegal financial activity, by providing investigative resources upon district and/or the Office of the Assistant Commissioner (Criminal Investigation) requests; also assists the U.S. attorneys and Chief Counsel in the processing of criminal investigation cases, including the preparation for the trial of cases.

**1132.8 (1-6-87)**  
**Office of Tax Administration  
Advisory Services**

**1132.74**

IR Manual

MT 1100-366

**1132.81 (4-21-85)**  
**Director, Office of Tax  
Administration Advisory Services**

The Office of Tax Administration Advisory Services provides technical advice and assistance in modernizing and strengthening the tax administration systems of foreign governments, particularly developing nations, in line with the foreign policy of the United States and its commitments to international organizations. Plans, arranges, controls and coordinates study and observation (visitation) programs in tax administration for tax officials from foreign governments and international organizations. Coordinates IRS membership in the Inter-American Center of Tax Administrators (CIAT) and provides technical support and assistance to the Commissioner and other Service officials in planning and implementing the U.S. role in this organization. Serves as central point of contact within the Service with foreign governments, the Office of the Secretary, the State Department, the Agency for International Development, the Trade and Development Program, the Organization of American States, and other international organizations on all matters concerning the foreign technical assistance programs mentioned above. Monitors and coordinates novel Federal-State programs of potentially national scope, or having broad multi-functional or inter-regional impact. Promotes the development of new joint or mutual compliance, training, automated data processing, taxpayer service or other activities with the Federation of Tax Administrators (FRA) and/or state tax agencies. Serves as the Service's primary liaison to the FTA (formerly the National Association of Tax Administrators), and supports the Assistant Commissioner (International) in his/her role as a member of that organization's Board of Directors. Provides liaison with other organizations representing state agencies with which the IRS seeks to develop cooperative relationships. Serves the Deputy Commissioner (Operations) in his/her role as co-chair of the IRS-State Coordinating Committee and monitors, coordinates and participates in implementing Committee decisions. Arranges for and authorizes temporary assignments of personnel between the IRS and State and local governments and institutions of higher education under the Intergovernmental Personnel Act where exchange of tax administration experience will result in mutual benefit to the Service and the participating organization.



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
CRIMINAL INVESTIGATION DIVISION

**DANIEL WILLIAMS**  
SPECIAL AGENT

MAILING ADDRESS  
P.O. BOX 803346  
DALLAS, TX 75380

FAX (972) 308-1014

BUSINESS ADDRESS  
4050 ALPHA RD., SUITE 8300  
FARMERS BRANCH, TX 75244

TEL. (972) 308-4884  
7029



U.S. Department of Justice

United States Attorney  
Northern District of Texas

1100 Commerce St., 3rd Fl.  
Dallas, Texas 75242-1699

Telephone (214)659-8600  
Fax (214)659-8803

August 24, 2000

Dear


Your are being served with a subpoena duces tecum for your appearance and the production of certain records before the Federal Grand Jury in Dallas, Texas on September 19, 2000 at 1:00 p.m.

You are also advised that your failure to produce the requested records or appear as directed in the subpoena will result in this office requesting the United States District Court in Dallas to compel your compliance with the subpoena.

If you have any questions or need further information, you or your attorney should contact me at 214-659-8600.

Very truly yours,

PAUL E. COGGINS  
United States Attorney

  
JOSEPH M. REVESZ  
Assistant United States Attorney

# United States District Court

NORTHERN

DISTRICT OF

TEXAS AT DALLAS

TO:

## SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

PERSON

DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE UNITED STATES ATTORNEY'S OFFICE 1100 COMMERCE ST., THIRD FLOOR DALLAS, TEXAS 75242	COURTROOM GRAND JURY ROOM DATE AND TIME SEPTEMBER 19, 2000 @ 1:00
---	--

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):\*

PLEASE SEE ATTACHMENT

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK <b>Nancy Doherty</b>	DATE
(BY) DEPUTY CLERK <i>Kimberly D. Coleman</i>	AUGUST 24, 2000

This subpoena is issued on application of the United States of America	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY JOSEPH M. REVESZ ASSISTANT UNITED STATES ATTORNEY 1100 COMMERCE ST., THIRD FLOOR DALLAS, TEXAS 75242 214-659-8664
--	--

**PROOF OF SERVICE<sup>1</sup>**

RECEIVED BY SERVER	DATE	PLACE
	DATE	PLACE

SERVED ON (PRINT NAME)

SERVED BY (PRINT NAME)

TITLE

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL

**DECLARATION OF SERVER<sup>2</sup>**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on \_\_\_\_\_  
Date\_\_\_\_\_  
Signature of Server\_\_\_\_\_  
Address of Server

Additional Information

<sup>1</sup> As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

<sup>2</sup> "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

# Summons



Department of the Treasury  
Internal Revenue Service

In the matter of \_\_\_\_\_

Internal Revenue District of North Texas Periods 1995, 1996, 1997, 1998

The Commissioner of Internal Revenue

To \_\_\_\_\_

At \_\_\_\_\_



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

SEE ATTACHMENT

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

Date: \_\_\_\_\_

**DO NOT WRITE IN THIS SPACE**

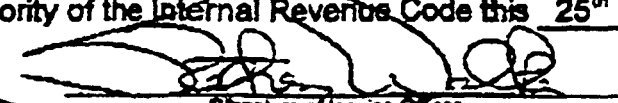
Business address and telephone number of Internal Revenue Service officer named above:

4050 Alpha Road, Room 830B, Farmers Branch, Texas 75244 Phone: 972-308-1017

Place and time for appearance:

at 4050 Alpha Road, Room 830B, Farmers Branch, Texas 75244

on the 6<sup>th</sup> day of June, 20 00 at 9:00 o'clock a. m.  
Issued under authority of the Internal Revenue Code this 25<sup>th</sup> day of May, 20 00

  
\_\_\_\_\_  
Signature of Issuing Officer

\_\_\_\_\_  
Special Agent  
Title



\_\_\_\_\_  
Signature of Approving Officer (if applicable)

\_\_\_\_\_  
Title

Original to be kept by IRS

Form 2039(c) (Rev. 3-94) 21407F

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

Exhibit A10F5

## Attachment to Grand Jury Subpoena

All original documents, microfilm, or photocopies thereof pertaining to financial transactions with Royce McCarley, Estate Preservation Consultants, Strongbridge Foundation Trust, Romer Gallant Trust, Texas Republic Trust, and any other entity controlled by McCarley, including but not limited to the following:

1. Complete copy of all trust governing instruments (trust documents), together with all attachments, schedules, and amendments;
2. Minutes of all meetings of the Board of Trustees, from the creation of the trusts through the present;
3. Any trust operating manuals or other instructions which describe the operation of the trusts;
4. Identification of all former and current trustees, including names, addresses, telephone numbers, and taxpayer identification numbers, from the creation of the trusts to the present;
5. Identification of all beneficiaries and or certificate holders, including names, addresses, telephone numbers, and taxpayer identification numbers, from the creation of the trusts to the present;
6. Records identifying all property transferred to the trusts, whether by gift or exchange, from the creation of the trusts to the present;
7. Listing of all financial accounts (bank, savings and loan, credit union, or brokerage) in the name of the trusts, including name of institutions, account names, and account numbers, from the creation of the trust to the present;
8. Records pertaining to distributions made to beneficiaries and or certificate holders from the creation of the trusts to the present;
9. All correspondence to and from each of the grantors, settlors, and/or creators of the trust; all correspondence to and from each of the trustees, and all correspondence to and from each of the beneficiaries;
10. All correspondence to and from \_\_\_\_\_, Estate Preservation Consultants, Strongbridge Foundation Trust, Romer Gallant Trust, Texas Republic Trust, and any other entity controlled by \_\_\_\_\_, and
11. Record of all payments made to \_\_\_\_\_, Estate Preservation Consultants, Strongbridge Foundation Trust, Romer Gallant Trust, Texas Republic Trust, and any other entity controlled by \_\_\_\_\_ including cancelled checks (front and back), cash receipts, money orders, and credit card receipts.

Send a Bill  
never required

# The Ten Deadly Sins

Following the weeks-long whistle-blowing session by disenfranchised IRS employees in front of the Senate Committee in the fall of 1997, the "IRS Restructuring and Reform Act of 1998," became an agency-wide mandate for all employees. Internally, it is referred to as "The Ten Deadly Sins," the infractions for which would be cause for termination.

The new provision was enacted in response to the widespread perception that IRS employees are not held fully accountable for improper conduct affecting taxpayers. The section provides that IRS employees must be charged with misconduct and terminated if there has been a judicial or final administrative determination that the employee committed any of the following acts or omissions.

## 1203 - Termination of Employment for Misconduct, Section 1203

1. Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

2. Providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

3. With respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of any right under the Constitution of the United States; or any civil right established under — Title VI or VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Discrimination in Employment Act of 1967; the Age Discrimination Act of 1975; section 501 or 504 of the Rehabilitation Act of 1973; or Title I of the Americans with Disabilities Act of 1990;

4. Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

5. Assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

6. Violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

7. Willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

8. Willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefore (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

9. Willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect;

10. Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Commissioner has the sole discretion, which he cannot delegate, to determine whether to take personnel action other than termination for the described acts or omissions. Such determination may not be appealed in any administrative or judicial proceeding.



**SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.**

(a) **IN GENERAL.** — Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) **ACTS OR OMISSIONS.** — The acts or omissions referred to under subsection (a) are —

- (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;
- (2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;
- (3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of —
  - (A) any right under the Constitution of the United States; or
  - (B) any civil right established under —
    - (i) title VI or VII of the Civil Rights Act of 1964;
    - (ii) title IX of the Education Amendments of 1972;
    - (iii) the Age Discrimination in Employment Act of 1967;
    - (iv) the Age Discrimination Act of 1975;
    - (v) section 501 or 504 of the Rehabilitation Act of 1973; or
    - (vi) title I of the Americans with Disabilities Act of 1990;
- (4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;
- (5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;
- (6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;
- (7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;
- (8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;
- (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and
- (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) **DETERMINATION OF COMMISSIONER.** —

- (1) **IN GENERAL.** — The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).
- (2) **DISCRETION.** — The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).
- (3) **NO APPEAL.** — Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) **DEFINITION.** — For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

# Internal Revenue Service Restructuring and Reform Act of 1998 - Title III Taxpayer Protection and Rights (Burden of Proof)

September 10, 1998

## MEMORANDUM FOR DISTRIBUTION

FROM: Bob Wenzel, Chief Operations Officer

SUBJECT: Internal Revenue Service Restructuring and Reform Act of 1998 - Title III Taxpayer Protection and Rights (Burden of Proof)

The Internal Revenue Service Restructuring and Reform Act of 1998 was signed into law effective July 22, 1998. Title III of the Act, Taxpayer Protection and Rights, also cited as the "Taxpayer Bill of Rights 3, (TBOR 3)," is the subject of this memorandum. More specifically, we want to bring to your attention Subtitle A containing Section 3001 of the bill which addresses Burden of Proof. Please also note that the provisions of the law are contained in new section 7491 of the Internal Revenue Code.

Congress is concerned that individual and small business taxpayers are at a disadvantage when they must litigate federal tax matters with the Internal Revenue Service. Congress believes that it is inappropriate for the Service to rely solely upon statistical data obtained from third party sources to reconstruct unreported income for a taxpayer. Congress further believes that, in a court proceeding, the IRS should not be able to rest on the presumption of correctness if it does not provide any evidence relating to penalties.

New section 7491(a) places the burden of proof on the Service in any court proceedings where the taxpayer has introduced credible evidence with respect to factual issues relevant to ascertaining the taxpayer's tax liability.

To qualify, the taxpayer must:

1. comply with all substantiation requirements of the Code;
2. maintain all the records required by the Code;
3. cooperate with the Service's reasonable requests for information; and,
4. if the taxpayer is a corporation, partnership, or trust, meet certain net worth qualifications.

Where the Service reconstructs a taxpayer's income solely through the use of statistical information of unrelated taxpayers, section 7491(b) places the burden of proof on the Service in any court proceeding. Section 7491(c) provides that the Service shall have the burden of production in a court proceeding relating to the appropriateness of applying any penalties, additions to tax, and additional amounts imposed by the Internal Revenue Code to the taxpayer. It should be noted that additional amounts are amounts that can be assessed by the Service which are not considered additions to tax or penalties. An example of an additional amount would be the IRC 6673 sanctions. It should be noted that the definition of "additional amounts" under IRC 7491(c) does not include any excise taxes.

It is important to distinguish between the burden of proof and burden of production. The burden of proof encompasses both the burden of persuasion and the burden of going forward with the evidence. To say that a party bears the burden of persuasion is to say that the party must persuade the court that its position is correct; if the party fails to meet its burden, it will lose the case. In the past, the taxpayer bore this burden and had to convince the Court that the Service was wrong. A burden of production, however, is a lesser burden, in that it can be met if the party who bears it comes forward with evidence supporting its position. In the past, the taxpayer bore the burden of production with respect to both the deficiencies and penalties. Under new section 7491(c), the Service now bears the burden of production with respect to the determination that a penalty applies.

Once the Service has met the burden of production, the taxpayer retains the burden of persuading the court that the penalty is not appropriate, by raising defenses such as reasonable cause to the penalty.

If the taxpayer complies with the statutory requirements, the Service must now assume the burden of showing to the satisfaction of the Court that the tax liability as redetermined was correct; and the taxpayer no longer bears the burden of proof. It is critical that examiners now document their workpapers to reflect the degree of taxpayer cooperation. In addition, the examiners must fully describe documents used to support audit conclusions and proposed tax adjustments. Examiners must also prepare documents which will fully describe the steps taken and the analysis which supports audit conclusions.

Good auditing and good litigation practice, similar to most determinations in the past, will ordinarily produce sufficient evidence to sustain the burden of proof. The Service and Chief Counsel have not, in the past, generally relied upon the taxpayer's failure of proof to sustain the asserted liability, but rather have affirmatively shown the proper liability. Continued adherence to these practices will satisfy the new standard, but it is now extremely important that a thorough examination and documentation of the liability be performed prior to the initiation of litigation.

**The following action (not all inclusive) can no longer be taken by the Service:**

- The Service can no longer rely on the taxpayer's failure to satisfy the burden of proof in court cases where the taxpayer has a reasonable factual dispute with the Service.

**The following are some actions (not all inclusive) the Service can take:**

- The Service can emphasize its examination procedures to further stress good examination techniques. Evidence should be gathered and preserved from the earliest stage of a case, documenting where the taxpayer has cooperated and the extent to which he or she did cooperate and produce information.
- All requirements of the law with respect to the treatment of an item for tax purposes should be explored and documented. Counsel will similarly emphasize good trial preparation and evidence production practice to satisfy the government's evidentiary burden.
- The Service can use statistical data from unrelated taxpayers to determine a taxpayers' income as a component of its traditional indirect methods of establishing income. There is no reason to abandon the usage of statistical information; rather a thorough examination will likely produce other circumstantial evidence that will support the income determination. In these instances, the use of statistical information will not be the sole means to determine income.

It should be noted for purposes of clarification that in the past, both the IRM and court decisions required the Service to supplement a Bureau of Labor Statistics (BLS) or a Consumer Price Index (CPI) reconstruction with direct evidence of the amount and likely source of a taxpayer's income. In a number of court cases decided within the past 2 years, where the Service failed to present direct evidence of a taxpayer's income producing activity, BLS and CPI reconstructions were not sustained. Appeal from these adverse decisions was not recommended because the Service had failed to abide by its internal practices and, therefore, the determinations should not have been made.

**Anticipated Future Actions:** We plan to take the following actions in implementing this new legislation affecting the change in burden of proof:

- Review and revise as appropriate the Internal Revenue Manual, Income Tax Regulations, Publication 1, *Your Rights as a Taxpayer*, and any other applicable Service publications to better inform the public of the specifics of IRC 7491. Please note that Publication 1, *Your Rights as a Taxpayer*, and Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, are being revised to include a section which discusses the shift in burden of proof from the taxpayer to the Service if the taxpayer meets certain conditions. Attached to this memorandum is an explanation of the new procedures which will be included in the above-referenced publications. Until the new publications are printed (approximately December 1, 1998), compliance personnel should distribute a copy of this attachment when taxpayers are contacted.

- Develop and deliver a CPE Technical Training Module to all Examination (including Service Center Examination), International, and EP/EO personnel.
- Issue an information release to the public.

**Distribution**

Regional Chief Compliance Officers  
 Assistant Commissioner (International)  
 Assistant Commissioner (Examination)  
 Assistant Commissioner (EP/EO)  
 Assistant Commissioner (Collection)  
 Executive Officer for Service Center Operations

## **Burden of Proof Provisions**

**Publication 1 - *Your Rights as a Taxpayer***  
**Publication 556 - *Examination of Return, Appeal Rights, Claims...***

**Shift in Burden of Proof**

The Internal Revenue Service Restructuring and Reform Act of 1998 was signed into law effective July 22, 1998. The new law shifts the burden of proof from you to the Internal Revenue Service during any court proceeding in which you have introduced credible evidence relating to a factual matter in dispute. However, in order for this burden to shift, you must meet the following criteria:

- You must comply with all substantiation requirements of the Internal Revenue Code,
- You must maintain all records required by the Internal Revenue Code,
- You must cooperate with reasonable requests made by the Service for information regarding the preparation of your tax return and the related tax treatment of any item reported on your tax return, and
- If your tax return is for a corporation, partnership, or trust, the burden of proof does not shift unless your net worth is less and \$7 million at the time your tax liability is contested in any court proceeding.

It is very important to remember that effective July 22, 1998, with respect to disputed factual issues, the burden of proof now shifts from you as the taxpayer to the Internal Revenue Service if the previously mentioned conditions are met. However, you still have a responsibility to keep and maintain records needed by the Service to verify that all taxes have been properly determined and computed.



INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

December 2, 1999

Complaint Number: C19990-

Dear Mr. -

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

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

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

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

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

Sincerely,

Director, Complaint Management Division



# Treasury Inspector General for Tax Administration

call our

# Hotline

## 1-800-366-4484

To Report

# Fraud, Waste, Abuse!

## in the Internal Revenue Service

Information is confidential  
and caller may remain anonymous

or write to: TIGTA  
P.O. Box 589, Ben Franklin Station  
Washington, D.C. 20044-0589

For Tax Problem Assistance  
Call the IRS Taxpayer Advocate at:  
1-877-777-4778



↙ **Implementing RRA 98**

IRS continues to confront the challenges of implementing RRA 98. RRA 98 mandates significant changes to the way IRS does business. In part, RRA 98 was passed due to Congressional hearings which focused on the misuse of enforcement statistics and abusive treatment of taxpayers. Several taxpayers testified to unfair and unreasonable treatment by IRS employees. Implementation of the legislative provisions imposed on IRS will result in enhanced taxpayer protection and rights, as well as organizational changes intended to achieve a more efficient and responsive organization.

↙ TIGTA placed significant emphasis on the implementation of RRA 98. Although IRS is making progress, TIGTA's audit work indicates that IRS is not in full compliance with all RRA 98 provisions. For example, TIGTA reported that IRS was not in compliance with the taxpayer rights provisions as they relate to seizures, liens, levies, use of enforcement statistics and Freedom of Information Act<sup>1</sup> (FOIA) requests.

↙ TIGTA also conducted reviews of other taxpayer rights issues, such as treatment of taxpayers during office audits and selecting returns for examination. TIGTA's Office of Audit concluded that because of weaknesses in controls and inappropriate actions on cases, the IRS did not always provide fair and equitable treatment to taxpayers.

↙ A significant number of the RRA 98 provisions deal with improving treatment of taxpayers and preventing abuse by IRS employees. Section 1203 of RRA 98 provides for the mandatory termination of IRS employees for specific categories of employee misconduct, including: violation of Constitutional or civil rights of taxpayers or IRS employees; intentional misconduct involving a taxpayer matter; threatening

audits for personal gain; or willful understatement by an employee of his or her own federal tax liability. The misconduct identified in Section 1203 has always been subject to discipline by IRS; however, the mandatory penalties imposed by RRA 98 served notice that a high standard of conduct is expected of IRS employees to ensure the trust and confidence of the public.

To address employee misconduct issues, TIGTA's Office of Investigations worked with IRS to develop procedures regarding assessment, referral and investigation of allegations of misconduct that are covered by Section 1203. TIGTA also operates a toll-free hotline number, an e-mail account and a central post office box to receive complaints of alleged wrongdoing by IRS employees. Information on how to report misconduct has been published in IRS Publication 1, *Your Rights as a Taxpayer*, which is provided to taxpayers that are likely to have direct contact with IRS employees. The toll-free number, e-mail account and address have also been published on TIGTA's public Internet site.

Calls and complaints are received by TIGTA's Complaint Management Division. This Division manages the complaints tracking system which became operational on July 19, 1999. This system provides a central accounting of all complaints received and the disposition of those complaints. In addition, TIGTA is working with IRS' Complaint Processing and Analysis Office to provide guidance on establishing an IRS complaint tracking system that is compatible with TIGTA's system.

***Providing Information Technology and Computer Security***

Modernization of the IRS' computer systems and security of taxpayer information have been major concerns for the past several years. For more than a decade, at a cost of \$4 billion, the IRS has been attempting to modernize its antiquated tax systems. These

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<sup>1</sup> 5 U.S.C. § 552 (1996)

## Semiannual Report to the Congress

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During the initial implementation period, IRS management was not consistently implementing the FTL provisions of RRA 98. Taxpayers and their representatives were not always informed of the taxpayers' right to a hearing once a FTL was filed.

The auditors reviewed 473 cases, of which 157 cases (33 percent) involved 176 potential violations of legislative or procedural requirements (some cases had multiple violations). The auditors' sample was not statistically valid; therefore, the results may not be representative of cases nationwide. The following are examples of the apparent noncompliance with the provisions of RRA 98 or IRS' procedures contained in the Internal Revenue Manual:

- Taxpayer representatives (e.g., attorney, accountant, etc.) were not sent a lien notice.
- Lien notices were not mailed to taxpayers within five business days of the FTL filing.
- Taxpayers were not given a full 30 calendar days to request a hearing.
- Undelivered lien notices were not re-sent when another address was available.
- Sufficient documentation was not retained to prove that lien notices were sent to taxpayers or were sent timely.
- Responsible spouses or individual partners in a partnership were not sent a copy of the lien notice.

The Office of Audit recommended that the IRS:

- Change systems to automate the mailing and re-issuance of undeliverable lien notices to all responsible taxpayers.
- Revise procedures to ensure that: (1) the government's interest is protected, (2) returned mail is researched completely and processed efficiently, (3) adequate documentation is maintained, and (4) management information systems

measure compliance with the new FTL notification requirements.

IRS management agreed with the findings and recommendations and will take corrective action.

### ***The Internal Revenue Service Needs to Improve Compliance with Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Taxes (Report No. 199910072)***

IRS procedures and provisions in I.R.C. Sections 6331 through 6344 (1986) are specific as to how to seize taxpayer property. If seizure procedures are followed correctly, taxpayers' rights and the government's interest will be protected. RRA 98 places particular emphasis on taxpayer rights and it contains several new provisions for conducting seizures (e.g., approval levels for seizing business assets, exemption of personal residences from seizures if the tax liability is \$5,000 or less, etc.).

The Office of Audit evaluated whether the IRS conducted seizures according to legal and internal guidelines. The auditors reviewed all 124 seizures (involving 92 taxpayers) conducted by the IRS during a six-month period beginning July 22, 1998, the date RRA 98 became law.

The IRS did not follow all legal and internal guidelines when conducting seizures in 33 (36 percent) of the 92 taxpayer cases reviewed and 32 of those cases potentially impacted the rights of the taxpayer. The auditors concluded further action is needed to ensure that all guidelines are consistently followed.

Legal seizure provisions were not followed in 19 (21 percent) of the 92 cases. Examples included:

- The IRS did not thoroughly investigate the status of the property before seizing property with little or no value, or did not consider alternatives to the seizure.



## Semiannual Report to the Congress

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- Business property was seized without obtaining the required approvals.
- A notice advising the taxpayer of enforcement action was not provided on all tax periods before the IRS seized the taxpayer's property.

IRS procedures were not followed in 21 (23 percent) of the 92 cases. Examples included:

- Case histories were not documented to indicate Publication 1, *Your Rights As A Taxpayer*, was provided to the taxpayer.
- Taxpayers were not personally warned before the seizure action occurred.
- Expenses of the seizures were not added to the taxpayers' tax liabilities when the property was released.

The Office of Audit recommended that IRS management should:

- Emphasize the need to use the appropriate checklists for all seizures conducted.
- Request an opinion from the IRS Office of Chief Counsel on those seizures that did not follow legal guidelines to determine if the IRS should make restitution to those taxpayers.

IRS management agreed to complete the checklists and to review the applicable seizure cases to determine if any monies should be returned to the taxpayer as a result of an inappropriate seizure.

### ***The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds for Payment of Tax (Report No. 199910071)***

Effective in January 1999, the I.R.C. Section 6330 (1986) requires the IRS to advise taxpayers of their right to have their case heard by the Appeals Office, and potentially a court, prior to the IRS taking money from taxpayers' bank accounts, employers or other parties to pay delinquent

taxes. The IRS must wait at least 30 calendar days from the date the taxpayer is notified of the intent to levy and of the taxpayer's appeal rights before issuing a levy.

The auditors reviewed 284 taxpayer accounts, involving 291 levies requested between mid-January and mid-April 1999, to determine if the IRS was in compliance with the new levy provisions, as well as its own internal levy procedures. In the nine offices tested, the auditors reported that the new procedures have not been effectively implemented. The IRS did not consistently notify taxpayers of the intent to levy and of their appeal rights. As a result, the rights of 204 taxpayers were impacted which could result in the IRS having to make restitution to some of the taxpayers.

Legal provisions were not followed in 92 (32 percent) of the 284 taxpayer accounts reviewed. Internal procedures were not followed in 88 (31 percent) of the taxpayer accounts reviewed. Examples of the provisions and procedures not followed included:

- Taxpayers were not notified of the IRS' intent to levy and of their appeal rights before levies were issued.
- Taxpayers were notified of the IRS' intent to levy and of their appeal rights after the levies were issued.
- Taxpayers were notified of the IRS' intent to levy and of their appeal rights, but levies were issued by the IRS during the 30-day waiting period.
- Taxpayers did not have appropriate information added to their computer account history to show the taxpayer had been notified of the IRS' plans to levy.
- Taxpayers did not have appropriate information added to their computer account history to show the initially requested levy had been destroyed.

fairness and trust in our tax administration system.

### Complaint Management Division

During the 1998 Senate Finance Committee hearings involving IRS activities, including the activities of the former Inspection Service, the IRS was criticized for its inability to track the receipt and disposition of taxpayer complaints, including any subsequent action taken on those complaints. Accordingly, TIGTA developed a new complaint tracking system that provides a centralized accounting of all complaints received by TIGTA and the dispositions of those complaints. This system, the Investigations Management Information System Complaint Management Screen, became operational on July 19, 1999. This system has the capability to document and track complaints where there are multiple subjects.

To receive complaints of wrongdoing by IRS employees, TIGTA operates a toll-free telephone number, an e-mail account and a central post office box. Allegations are received at TIGTA's Complaint Management Division, which acts as a national center to process and track allegations of fraud, waste, abuse and other forms of wrongdoing.

To assure TIGTA has all the relevant information available to evaluate a complaint, complainants are interviewed, to the extent possible, by TIGTA personnel. Complainants are also provided with a Complaint Number which can be used to track the complaint's disposition.

During this reporting period, TIGTA received 5,092 complaints. Of these complaints, 2,071 (41 percent) warranted further investigation (see Appendix II).

### Section 1203 Violations

Section 1203 of RRA 98 addresses a Congressional objective to ensure the protection of taxpayers and IRS employees from intentional, willful misconduct by IRS employees. RRA 98 provides for the termination of employees who commit specific categories of misconduct (see Appendix V for a summary of Section 1203 standards). During this reporting period, TIGTA initiated 122 investigations relating to alleged 1203 violations. Of these, 101 are currently ongoing, 4 were closed to file and 17 have been closed and referred to the IRS for administrative adjudication. The IRS terminated three employees under Section 1203 during this reporting period.

In addition, TIGTA received 365 information items relating to Section 1203 that were provided to IRS managers for action, as they deemed appropriate. These information items are complaints or allegations where TIGTA determined that an investigation was not warranted.

### *IRS Employee Found Guilty of Battery and Resigns Position Based on a 1203 Violation*

On May 6, 1999, an IRS employee was found guilty of a charge of battery. The employee also resigned from her IRS position prior to administrative action based on a 1203 violation related to this incident. TIGTA initiated an investigation after several police officers reported that an IRS employee had threatened them during a traffic stop. During the traffic stop, the employee identified herself as an IRS employee, displayed her IRS credentials, threatened the officers with IRS audits and used abusive language. After scribbling her name on the traffic citation, the IRS employee threw the ticket book and pen at an officer, striking the officer. TIGTA special agents worked with the local authorities on the investigation. The IRS employee was sentenced to six months

# The New York Times

LATE CITY EDITION

"All the News That's Fit to Print."

### JAPANESE DRIVE SLACKENS BUT 2 ARMIES MAKE GAINS; ALL NORTH CHINA IS TENSE

#### JAPANESE FIRM AT PASS

Hard Back Repeated Flanking Attempts in South of Jehol.

### HITLER SUSPENDS REICH GUARANTEES; LEFT PRESS BANNED

Emergency Shown to Combat Communist Terrorists' Constitutional Litigation.

### House Held Sure to Pass Bankruptcy Bill; Roosevelt Influence Wins Railway Aid

### STATE SALARY CUTS IN LOWER LEVELS REPUBLICAN PLAN

### SMITH OPPOSES INFLATION, ASKS BOND ISSUE FOR JOBS, WOULD RECOGNIZE RUSSIA

#### HE STIRS SENATE INQUIRY

#### Currency Inflation On a 'Shot in the Arm'

# The New York Times

LATE CITY EDITION

"All the News That's Fit to Print."

### INA'S MAIN LINE BROKEN A HARD JAPANESE DRIVE; CHIFFENG TROOPS DESERT

#### ARMY QUICKLY TAKEN

40,000 Chinese Pushed Backward; Forces in Jeopardy.

### HITLER INTENSIFIES DRIVE ON THE LEFT; HUNDREDS ARRESTED

And Leaders Held; Includes Plans to Suppress All Other Parties.

### Boettcher Freed by Kidnappers; Payment of Ransom Indicated

Wishes to Leave Out of Auto Pursued at East River; \$25,000 of Ransom in Cash—\$50,000 Reported Total to Abductors.

### ROOSEVELT WILL GO TO CAPITAL TODAY FOR INAUGURATION

### HOUSE VOTES WIDE POWERS TO ROOSEVELT FOR CUTS; CONGRESS IN FINAL RUSH

#### PRESS RELIEF MEASURES

#### House Body Reports Bill

# The New York Times

LATE CITY EDITION

"All the News That's Fit to Print."

### RUSSIAN ADVANCE STRENGTHENED; RUSSIAN IN FLIGHT

200,000 Chinese Advance on the Front; Russian in Flight.

### WALSH FOUND DEAD BY BRIDE OF 5 DAYS ON WAY TO CAPITAL

Remains Found in Hotel; Cause of Death Under Investigation.

### ROOSEVELT IN CAPITAL, WILL CONFER WITH HOOVER TODAY; CUMMINGS MADE ATTORNEY GENERAL, RAINEY SPEAKER

#### GARDNER FORCES BEATEN

McDuffie Loses to Gardner by 166 to 112 in Caucus.



#### CAPITAL HALLS NEW CHEF

Crowd, Scoring Rain Checks as He Reaches City Heavily Guarded.

#### TRAIL PROBLEMS ON TRAIL

# The New York Times

5 A. M. EDITION

"All the News That's Fit to Print."

### TWO-DAY HOLIDAY FOR BANKS HERE, LEHMAN'S ORDER

#### EFFECTIVE THIS MORNING

#### Governor Acts After an All-Night Conference With Banking Heads.

#### PERIOD INCLUDES MONDAY

#### All Banks and the Savings Banks are Affected by Emergency Order.

#### LEHMAN TAKES DEC. TOO

#### Part of Closing Order to Put in Effect by Governor of New York.

### JAPANESE CAPTURE CAPITAL OF JEHOL; NORTH CHINA UNEASY

#### Advancers Make Strong Fight, but Many Soldiers are Fanned to Fate.

#### SOME LEADERS GO TO FRONT

#### Losses of Chinese are Put at 1,000—They Ought to Be in China.

#### NEW JAPANESE DEMANDS

#### They Demand Surrender of the Chinese Government and the Chinese Army.

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### ROOSEVELT TAKES UP TASK AS PRESIDENT TODAY; GREAT CROWDS IN CAPITAL FOR INAUGURATION; EXTRA SESSION WILL ENACT A NEW BANK POLICY

#### Some Get Last Pay Check's by Work Today for Nothing

#### CALL EXPECTED AT ONCE

#### Roosevelt May Even Sit it for the Last of Next Week, Leaders Say.

#### TIME LIST IS PROPOSED

#### As it is to be used in Examining, Leaving Other Problems to Second Session.

#### PROGRAM IS EARLY READY

#### President's List is Expected to Have a Banking Chapter for Unemployment Congress.



#### ROOSEVELT PLANS SECRET

#### He Rejects His Adviser's Plea to Reveal Aims Before Oath.

#### MAINE CONVULSIVE WAVE

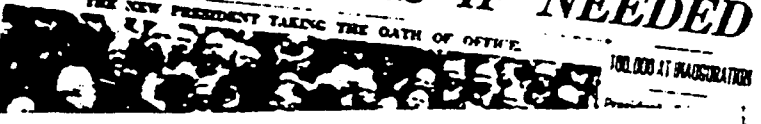
#### The Epidemic is Under Control in Maine.

#### CAPITAL DEWETS SPEED

#### Leaders are Expected to Meet at 10:30 P. M. in the White House.

# ROOSEVELT INAUGURATED, ACTS TO END THE NATIONAL BANKING CRISIS QUICKLY; WILL ASK WAR-TIME POWERS IF NEEDED

**READY TO CALL CONGRESS**  
President Probably Will Summon Extra Session for Wednesday



# ROOSEVELT ORDERS 4-DAY BANK HOLIDAY, PUTS EMBARGO ON GOLD, CALLS CONGRESS

**BANKERS READY TO ISSUE CLEARING HOUSE PAPER AT END OF HOLIDAY.**

**WILK ATTACKS STATE'S NAME IN WIDE RAMP, TALKS TO SENATE**

**JAPANESE PUSH ON IN PIERCE FIGHTING; CHINA CLOSSES WALL**

**WALL STAYS OPEN FOR 24 HOURS; BANKS HERE ACT AT ONCE**

**CITY SCRIP TO BE READY TODAY OR TOMORROW TO REPLACE CURRENCY**

**The President's Bank Proclamation**  
WASHINGTON, March 6.—The last of President Roosevelt's actions on the banking situation, word of which first came in other circles, was as follows: BY THE PRESIDENT OF THE UNITED STATES OF AMERICA. A Proclamation.

**USE OF SCRIP AUTHORIZED**  
President Takes Steps Under Sweeping Law of War Time

**GREK ARMY LEADER SEIZES GOVERNMENT TO BAR MONARCHIST**

**WAZIS WANT PEACE WHILE THEY EFFORT INTERNAL REFORMS**

**LEGISLATURE VOTES LEHMAN WIDE BANK POWERS; WOODIN AUTHORIZES NEW CHECKING ACCOUNTS**

**NATIONAL HOLIDAY EASED**

**WOODIN WORKS OUT SEVERAL RULES FOR PROVIDING CURRENCY RELIEF**

**NEW BANKING REGULATIONS**

**LIBRARY ACTS QUICKLY**

**Virtual Dictatorship is Approved as Treasury Sanctions Program**

**CERMAK SUCCEEDS TO ASSASSIN'S SHOT**

**DELLAR RATE DROP FOUGHT IN LONDON**

**FOOD TRANSPORT AID**

**FEDERAL SCRIP SELLER OUT**

**DIFFICULTIES ARE CITED**

**SCIP ISSUE HERE HELD UP**

**City Firms at Least 24 Hours Free Without a Status of Exchange for Trade**

**DIFFICULTIES ARE CITED**

The headlines of the New York Times reflect the momentous events of the first seven days of March, 1933

"All the News That's Fit to Print."

# The New York Times.

LATE CITY EDITION  
WEATHER—Fair today; somewhat cloudy, warmer, calm following; temperature 70-80-85-90-95-100.

Copyright, 1933, by The New York Times Company.

VOL. LXXXII...No. 27,438.

Printed at Times Building, 15 N. York St., New York, N. Y.

NEW YORK, MONDAY, MARCH 6, 1933.

F

TWO CENTS In New York THREE CENTS Elsewhere Sent by Mail and Post Office

## ROOSEVELT ORDERS 4-DAY BANK HOLIDAY, PUTS EMBARGO ON GOLD, CALLS CONGRESS

### HITLER BLOC WINS A REICH MAJORITY; RULES IN PRUSSIA

Stay-at-Home Turn Out and Give Government 52% of 99,000,000 Record Vote.

### HAZIS ROLL UP 17,300,000

Get 44% of Total Poll and Even Wrote the Control of Bavaria From Catholic.

### ELECTION IS PEACEFUL

Battle in Cloisly Guarded—The Reichstag Holds Parade Under Sunny Skies.

### BY FRANKLIN D. ROOSEVELT.

Special Order to the President from the President, Monday, March 6.—With almost mathematical precision the results in yesterday's German elections for the Reichstag and the Prussian Diet bear out the predictions based on the preliminary campaign. Just as we had foreseen, the vote of the Nationalist Party has produced a Reichstag with a majority of 52 per cent, and a Prussian Diet with a majority of 52 per cent. The results are a reflection of the fact that the Nationalist Party has been able to attract the support of the vast majority of the German people. The results are a reflection of the fact that the Nationalist Party has been able to attract the support of the vast majority of the German people.

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### Hitler Attacks Stalin's Home in Wide Revolt, Tokyo Hears

Written to You New York Times, TOKYO, Monday, March 6.—Private information reaching Tokyo today that Stalin's home in Leningrad has been attacked by a mob of about 100 persons. The mob, led by a man named Joseph Stalin's home in Leningrad has been attacked by a mob of about 100 persons. The mob, led by a man named Joseph Stalin's home in Leningrad has been attacked by a mob of about 100 persons.

### CERMAK NEAR END; LAPSSES INTO COMA

Death is Imminent From Shot Aimed by Zangara at Roosevelt.

### FAMILY AT HIS BEDSIDE

Third Transfusion Futile in 19-Day Fight to Save Chicago Mayor in Miami Hospital.

### BY THE ASSOCIATED PRESS.

MIAMI, Fla., Monday, March 6.—Physicians at Meyer Anderson Hospital today announced that the condition of Mayor Anton Cermak is still critical. The mayor was shot on Saturday night by Giuseppe Zangara. The condition of the mayor is still critical. The mayor was shot on Saturday night by Giuseppe Zangara.

### JAPANESE PUSH ON IN FIERCE FIGHTING; CHINA CLOSES WALL

Jeihai Forces Offer Stoutest Resistance of Campaign as They Are Cornered.

### BUT LOSE ANOTHER PASS

Chang's Troops at Kupul Bar Retreat Southward to the Peiping Area.

### HANKING ADMITS DEFEAT

America 'What Will Happen Next Depends on Military—Thinkin' Peace Clash.

### BY THE ASSOCIATED PRESS.

TOKYO, March 6.—(Special) Japan's army today announced that it had captured the city of Kupul Bar. The Japanese army has been pushing on in fierce fighting. The Chinese government has closed the Great Wall. The Japanese army has been pushing on in fierce fighting.

### Relief Wages Will Be Paid Despite Holiday, Gibson Says

Harvey D. Gibson, chairman of the Emergency Unemployment Relief Committee, declared yesterday that the bank holiday would not interfere with the payment of wages to unemployed men and women holding emergency jobs through the committee's work and relief bureau. "Emergency wages must be paid and must be paid to pay them," Mr. Gibson said. "I have no doubt that we will find a way to do it. We are not worried about it at all. Arrangements will be made to see that the emergency relief payments are made."

### BANKS HERE ACT AT ONCE

City Scrip to Be Ready Today or Tomorrow to Replace Currency.

### EMERGENCY STEP PRAISED

Financiers Look for Little Interruption in Business Under Federal Program.

### 'TRUST DEPOSITS' TO AID

Cash Now Can Be Placed in New Accounts and Drawn Upon Without Limitation.

### BEWILDERED CITY STILL PAYS IN CASH

Faces Use of Scrip Calmly and Continues to Patronize the Theatres and Stores.

### HOPEFUL MOOD PREVAILS

Merchants and Travel Lines Uncertain on Use of Tender—Many Extending Credit. Clearing house certificates will be issued in New York, if needed, just as soon as they are printed, possibly today and probably earlier than tomorrow, as a result of President Roosevelt's proclamation of last night. The President's emergency decree not only made the banking holiday permanent but also gave the banks permission to issue scrip in the form of clearing house certificates to take the place of regular currency. There will be little or no interruption in the ordinary routine of New York's business affairs, which can be carried on with scrip as a substitute medium of exchange just as well as with other currency. The banks, however, would be converted into scrip for that purpose and for receiving new deposits. Leaders bankers indicated their approval of the President's proclamation but night and clarified their belief that the use of scrip would be just as successful in New York as it was in the 1907 panic. May Pay in Currency. There is a possibility, some bankers said, that the New York banks might pay out currency when they reopen for business, or in addition to clearing house certificates. Such action would be possible only with the express permission of the Secretary of the Treasury under the President's order. These banks are not at all that the banks have large amounts of ill money on hand and that they could, if permitted, meet substantial demands from their depositors out of these cash holdings. From the standpoint of the central banking system the paying out of this still money to the public would have no effect upon the position of the national

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### The President's Bank Proclamation

WASHINGTON, March 6.—The text of President Roosevelt's proclamation on the banking situation, issued at the White House at 11 o'clock tonight, was as follows: BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A Proclamation

WHEREAS there have been heavy and unwaranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding and... WHEREAS such conditions have created a national emergency and... WHEREAS it is in the best interests of all bank depositors that a period of respite be provided with a view to preventing further hoarding of gold, bullion or currency or speculation in foreign exchange and permitting the application of appropriate measures to protect the interests of our people; and... WHEREAS it is provided in Section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended, that the President may investigate, regulate or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, selling or encumbrance of gold or silver coin or bullion or currency... WHEREAS it is provided in Section 16 of the said act that "whenever shall officially violate any of the provisions of this act or of any license, rule or regulation issued thereunder, and whenever shall willfully violate, neglect or refuse to comply with any order of the President issued in compliance with the provisions of this act, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, imprisoned for not more than ten years or both... NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, PRESIDENT OF THE UNITED STATES OF AMERICA, IN VIEW OF SUCH NATIONAL EMERGENCY AND BY VIRTUE OF THE AUTHORITY vested in me by said act and in order to prevent the export, hoarding or encumbrance of gold or silver coin or bullion or currency, do hereby proclaim, order, direct and declare that from Monday, the sixth day of March, to Thursday, the ninth day of March, National Bank Holiday and the banking institutions and all branches thereof located in the United States of America, including the Territories and Insular Possessions, a bank holiday, and that during said period all banking transactions shall be suspended. During such holiday, excepting as hereinafter provided, no such banking institution or branch shall pay out, export, encumber or permit the withdrawal or transfer in any manner or by any device whatsoever of any gold or silver coin or bullion or currency or take any other action which might facilitate the hoarding thereof; nor shall any such banking institution or branch pay out deposits, make loans or discounts, deal in foreign exchange, transfer credits from the United States to any place abroad, or transact any other banking business whatsoever. During such holiday, the Secretary of the Treasury, with the approval of the President and under such regulations as he may prescribe, is authorized and empowered (a) to permit any or all of such banking institutions to perform any or all of the usual banking functions, (b) to direct, require or permit the issuance of clearing house certificates, or other evidence of claims of assets of banking institutions, and (c) to authorize and direct the creation in such banking institutions of special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve Banks or invested in obligations of the United States. As used in this order the term "banking institutions" shall include all Federal Reserve Banks, national banking associations, banks, trust companies, savings banks, building and loan associations, credit unions, or other corporations, partnerships, associations or persons, engaged in the business of receiving deposits, making loans, discounting business paper, or transacting any other form of banking business. IN WITNESS WHEREOF I have hereunto set my hand and

### USE OF SCRIP AUTHORIZED

President Takes Steps Under Sweeping Law of War Time.

### PRISON FOR GOLD HOARDER

The Proclamation Provides for Withdrawals From Banks Against New Deposits.

### CONGRESS SITS THURSDAY

Day of Conference With the Cabinet and Financial Men Proceeds the Decees.

### Special to You New York Times.

WASHINGTON, March 6.—To prevent the export, hoarding or encumbrance of gold or silver, coin or bullion or currency, President Roosevelt issued a proclamation at 11 o'clock tonight, in which he ordered a bank holiday from tomorrow through Thursday, March 9. Earlier in the day he had announced a special session of Congress to meet on Thursday. This sweeping action was taken after a day of conferences, among officials and bankers, the President's banking situation. The President's banking situation. The President's banking situation. The President's banking situation.

# The President's Bank Proclamation

Issued on the 15th day of March, 1917.

WASHINGTON, March 15.—The head of President Roosevelt's proclamation on the banking situation, issued on the 15th day of March, 1917, reads as follows:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

## A Proclamation

WHEREAS there have been heavy and unwarranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding; and

WHEREAS such hoarding and hoarding of extensive speculative activity abroad in foreign exchange has resulted in severe trials on the nation's stocks of gold; and

WHEREAS these conditions have created a national emergency; and

WHEREAS it is in the best interests of all our citizens that a period of respite be provided with a view to preventing further hoarding of gold, bullion or currency or speculation in foreign exchange and permitting the application of appropriate measures to protect the interests of our people; and

WHEREAS it is provided in Section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411) as amended, that the President may investigate, regulate or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, making or transmission of gold or silver coin or bullion or currency; and

WHEREAS it is provided in Section 16 of the said act that whenever shall vitally relate to any of the provisions of this act or of any license, rule or regulation issued thereunder, and whenever shall vitally relate, neglect or refuse to comply with any order of the President issued in compliance with the provisions of this act, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, imprisoned for not more than two years or both.

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, PRESIDENT OF THE UNITED STATES OF AMERICA, IN VIEW OF SUCH NATIONAL EMERGENCY AND BY VIRTUE OF THE AUTHORITY vested in me by said act and in order to prevent the export, hoarding or accumulation of gold or silver coin or bullion or currency, do hereby prohibit, order, direct and declare that from Monday, the sixth day of March, to Thursday, the ninth day of March, inclusive hereof and thirty-three days thereafter, there shall be maintained and observed by all banking institutions and all branches thereof located in the United States of America, including the Territories and Insular Possessions, a bank holiday, and that during said period all banking transactions shall be suspended.

During such holiday, excepting as hereinafter provided, no such banking institution or branch shall pay out, export, transmit or permit the withdrawal or transfer in any manner or by any device whatsoever of any gold or silver coin or bullion or currency or take any other action which might facilitate the hoarding thereof; nor shall any such banking institution or branch pay out deposits, make loans or discounts, deal in foreign exchange, transfer credits from the United States to any place abroad, or transmit any other banking business whatsoever.

During such holiday, the Secretary of the Treasury, with the approval of the President and under such regulations as he may prescribe, is authorized and empowered (a) to permit any or all of such banking institutions to perform any or all of the usual banking functions, (b) to direct, regulate or permit the issuance of clearing house certificates, or other evidence of claims of assets of banking institutions, and (c) to authorize and direct the creation in such banking institutions of special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve Banks or in respect to obligations of the United States.

As used in this order the term "banking institutions" shall include all Federal Reserve Banks, national banking associations, banks, trust companies, savings banks, building and loan associations, credit unions, or other corporations, partnerships, associations or persons, engaged in the business of receiving deposits, making loans, discounting business paper, or transacting any other form of banking business.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington this 15th day of March, 1917. In the Year of Our Lord One Thousand Nine Hundred and Seventy-three, and of the Independence of the United States the one hundred and fifty-seventh.

(SEAL) FRANKLIN D. ROOSEVELT.

By the President:  
CORDELL HULL,  
Secretary of State.

Sections 30 and 31, formerly 29 and 30, respectively, of act Dec. 23, 1913, as renumbered by act Nov. 10, 1978, Pub. L. 95-630, title I, Sec. 101, 92 Stat. 3641, provided:

'Sec. 30. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

'Sec. 31. The right to amend, alter, or repeal this Act is hereby expressly reserved.'

-CITE-

12 USC Sec. 227

01/05/99

-EXPCITE-

TITLE 12 - BANKS AND BANKING  
CHAPTER 3 - FEDERAL RESERVE SYSTEM  
SUBCHAPTER I - DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS  
AFFECTING SYSTEM

ON  
THE  
CD

-HEAD-

Sec. 227. 'Banking Act of 1933'

-STATUTE-

The short title of the Act of June 16, 1933, ch. 89, 48 Stat. 162, shall be the 'Banking Act of 1933.'

-SOURCE-

(June 16, 1933, ch. 89, Sec. 1, 48 Stat. 162.)

-REFTEXT-

REFERENCES IN TEXT

The Banking Act of 1933, also known as the Glass-Steagall Act, 1933, referred to in text, is classified to sections 24, 33, 34a, 36, 51, 52, 61, 64a, 71a, 77, 78, 84, 85, 161, 197a, 221a, 227, 242, 244, 248, 289, 301, 304, 321, 329, 333 to 338, 347, 348a, 371a, 371b, 371c, 371d, 374a, 375a, 377, 378, 481, and 632 of this title. For complete classification of this Act to the Code, see Tables.

-MISC2-

RIGHT TO AMEND, ALTER OR REPEAL; SEPARABILITY

Section 34 of act June 16, 1933, provided: 'The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby'.

-CITE-

12 USC Sec. 228

01/05/99

-EXPCITE-

TITLE 12 - BANKS AND BANKING  
CHAPTER 3 - FEDERAL RESERVE SYSTEM

SUBCHAPTER I - DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS  
AFFECTING SYSTEM

-HEAD-

Sec. 228. 'Banking Act of 1935'

-STATUTE-

The act of August 23, 1935, ch. 614, 49 Stat. 684, may be cited as the 'Banking Act of 1935.'

-SOURCE-

(Aug. 23, 1935, ch. 614, Sec. 1, 49 Stat. 684.)

-REFTEXT-

REFERENCES IN TEXT

The Banking Act of 1935, referred to in text, is classified to sections 2, 24, 33 to 34c, 35, 36, 51, 51a, 51b-1, 52, 59 to 61, 64a, 71a, 78, 84, 85, 170, 181, 192, 221a, 228, 241, 242, 244, 247a, 248, 263, 287, 288, 321, 324, 336, 341, 343, 347b, 352a, 355, 357, 371, 371a, 371b, 371c, 375a, 377, 378, 461, 462a-1, 462b, 465, 481, 482, 486, 619, 1702, 1703, 1709, and 1713 of this title; section 101 of Title 11, Bankruptcy; section 19 of Title 15, Commerce and Trade. See, also, sections 217, 218, 334, 655, 656, 709, 1905, 1906, 1909, and 2113 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code see Tables.

-MISC2-

SEPARABILITY

Section 346 of act Aug. 23, 1935, provided: 'If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.'

-CITE-

12 USC SUBCHAPTER II - BOARD OF GOVERNORS OF THE FEDERAL  
RESERVE SYSTEM

01/05/99

-EXPCITE-

TITLE 12 - BANKS AND BANKING  
CHAPTER 3 - FEDERAL RESERVE SYSTEM  
SUBCHAPTER II - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

-HEAD-

SUBCHAPTER II - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

-CITE-

12 USC Sec. 241

01/05/99

-EXPCITE-

TITLE 12 - BANKS AND BANKING  
CHAPTER 3 - FEDERAL RESERVE SYSTEM  
SUBCHAPTER II - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

-HEAD-



Sec. 241. Creation; membership; compensation and expenses

-STATUTE-

The Board of Governors of the Federal Reserve System (hereinafter referred to as the 'Board') shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after August 23, 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. The members of the Board shall devote their entire time to the business of the Board and shall each receive basic compensation at the rate of \$16,000 per annum, payable monthly, together with actual necessary traveling expenses.

-SOURCE-

(Dec. 23, 1913, ch. 6; Sec. 10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, title II, Sec. 203 (b), 49 Stat. 704.)

-COD-

CODIFICATION

Section is comprised of first par. of section 10 of act Dec. 23, 1913. Pars. 2-7 and 8 of section 10; par. 9 of section 10, as added June 3, 1922, ch. 205, 42 Stat. 621; and par. 10 of section 10, as added Aug. 23, 1935, ch. 614, Sec. 203(d), 49 Stat. 705, are classified to sections 242 to 247, 1, 522, and 247a, respectively, of this title.

-MISC3-

AMENDMENTS

1935 - Act Aug. 23, 1935; Sec. 203(b), increased the appointive membership from six to seven, terminated the membership of the Secretary of the Treasury and the Comptroller of the Currency, raised the tenure from twelve to fourteen years and increased the annual salary from \$12,000 to \$15,000.

-CHANGE-

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, provided that: 'Hereafter the Federal Reserve Board shall be known as the 'Board of Governors of the Federal Reserve System,' and the governor and the vice governor of the Federal Reserve Board shall be known as the 'chairman' and the 'vice chairman,' respectively, of the Board of Governors of the Federal Reserve System.'

-MISC4-

REPEALS

Act Oct. 15, 1949, ch. 695, Sec. 4, 63 Stat. 880, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, Sec.

# PUBLIC LAWS OF THE SEVENTY-THIRD CONGRESS

OF THE

## UNITED STATES OF AMERICA

*Passed at the first session, which was begun and held at the city of Washington, in the District of Columbia, on Thursday, the ninth day of March, 1933, and was adjourned without day on Friday, the sixteenth day of June, 1933.*

FRANKLIN D. ROOSEVELT, President; JOHN N. GARNER, Vice President; KEY PITTMAN, President of the Senate *pro tempore*; HENRY T. RAINEY, Speaker of the House of Representatives.

[CHAPTER 1.]

### AN ACT

To provide relief in the existing national emergency in banking, and for other purposes.

March 9, 1933.  
[H. R. 1461.]  
[Public, No. 1.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application.*

National banking system.  
Emergency declared existing.

### TITLE I

SECTION 1. The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

Proclamations, orders, etc., issued since March 4, 1933; approved.

SEC. 2. Subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows:

Sec. p. 342.  
Trading with the Enemy Act, amended. Vol. 40, pp. 415, 956, amended.

“(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned

Foreign exchange, export or hoarding of coin, bullion, etc.  
Regulatory powers of President during national emergency.

Compulsory testimony, etc.

Punishment for violation.

# WAR AND EMERGENCY POWERS

## THE SEIZURE OF ALL PROPERTY

### BOTH PERSONAL AND REAL

Recent American developments concerning War Power and emergency controls of our Economy, Property, and Rights are strikingly similar to the elements of the British experience.

Twentieth century British government, completely un-restrained by written Constitutional limitations and free to invoke the vague and undefined prerogative powers in time of emergency, have successfully "*statuere*" prerogative Emergency Powers. That is to say; they have prescribed by statute the range of authority available to the Executive and the relationships between the Executive, the Legislature, and the Courts while under emergency rule.

In the United States of America; despite or perhaps because of the existence of formally inscribed Constitutional limitations upon the power of government and formally inscribed Constitutional separation of powers of government, there has insidiously evolved a prerogative Emergency Power of largely undefined content and without Constitutional authorization to which the Executive has appealed with almost uniform success in time of emergency (Hearings p. 539).

The present status of Emergency and War Power doctrine and practice in the United States is out of control.

*"Since March 9, 1933; the United States has been in a state of declared National Emergency. ... A majority of the people of the United States have lived all their lives under emergency rule. For almost 60 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought in force by states of National Emergency."*

(Senate Report 93-549, Part III)

While under Emergency rule; the government claims that there are no limitations on its powers. The Legislative branch can write statutes for all cases whatsoever. The Executive branch can, through Executive order, Executive agreements, and Executive proclamations; make rules, regulations, and laws concerning all subject matter. The Judicial branch can make law through case precedent and enforce all Executive or Legislative decrees.

All Constitutional limitations on the power of government are effectively suspended. The Rights of men, as guaranteed by the "**Bill of Rights**," are temporarily suspended. The three branches of government unite into one emergency body and work in concert to formulate and enforce this emergency rule.

Needless to say; emergency rule is perilous to the freedom of People. When emergency rule is declared and never terminated; the government becomes, for all practical purposes, a dictator.

We then entered a new era - "*The New Deal Socialist Democracy*" which operated over the entire continental United States.

The day after his inauguration; Roosevelt issued a "*Proclamation*" calling a special session of Congress:

*"In actual fact, it could appear that the President called the Congress into special session to sanction his emergency banking action and then continued the meeting for as long as it suited the mutual purposes of the two branches. When the proclamation for the gathering was issued on March 5, no purpose for the assembly was specifically indicated or even alluded to generally. Roosevelt knew what he wanted to do but had no Legislative plans. Before arriving in Washington, he had rough drafts of two presidential proclamations: one calling a special session of Congress; the other declaring a bank holiday and controlling the export of gold by invoking forgotten provisions of the wartime Trading with the Enemy Act. The bank holiday proclamation was issued on March 6. Between the evening after the inauguration and the opening of Congress, William Woodin, Roosevelt's Treasury Secretary, Raymond Moley, a Roosevelt assistant, and a few others wrote the Emergency Banking Bill. When Congress convened, the House had no copies of the measure and had to rely upon the Speaker reading from a draft text. After thirty-eight minutes of debate, the House passed the Bill. That evening, the Senate followed suit. ..*

*"The emergency banking measure extended government assistance to private bankers to reopen their banks. The bill validated actions the President had already taken, gave him complete control over gold movements, penalized hoarding, authorized the issue of new Federal Reserve Bank notes, and arranged for the reopening of banks with liquid assets and the reorganization of the rest."*

(Brief History, p. 57)

The "*Bank Holiday Act*" and the "*Trading With the Enemy Act*" (patterned after the British experience) gave the government virtual control over all aspects of the economy and social structure of the Nation. The "*New Deal*" was on. Nationalization, socialism, and confiscation of all Property, both real and personal, were the password of the day.

In his *inaugural address*; Roosevelt said:

*"I shall ask the Congress for the one remaining instrument to meet the crisis - broad Executive power to wage war against the emergency, as great as the power that would be given me if we were in fact invaded by a foreign foe."*


(Senate Report 93-549)

*"The first New Deal agencies indeed bore strong resemblances to wartime agencies and many had the term "emergency" in their titles.*

*"In his first important official act, Roosevelt proclaimed a National Bank Holiday on the basis of the October 6, 1917 Trading With the Enemy Act, itself a wartime delegation of power.*

*"The Trading With the Enemy Act had been specifically designed by its originators to meet only wartime exigencies."*


(Senate Report 93-549, pp. 4-5)

The "Trading With The Enemy Act" was implemented first in 1917. That "National Emergency" was terminated in 1921. However, section 5(b) of that Act was exempted. 

"The Trading with the Enemy Act' of 1917 has been amended frequently, and in the process, its original purpose and effect have been altered significantly. The 'Act' was originally intended to "defined, regulate and punish trading with the enemy." 40 Stat. 415. Directed primarily to meeting the exigencies of World War I, its drafters intended the 'Act' to remain on the books for future war situations. 55 Cong. Rec. 4908. Accordingly, when other war powers were terminated in 1921, an exception was made for the 'Act' and it remained valid law. (Knox)"

See also Part 2 Executive Replies Summary of the Executive Branch and Committee Recommendations prepared for the staff of the Special Committee on the National Emergencies and Delegated Emergency Powers United States Senate November, 1974" (Senate Report, 39-948, p. 193)

It was under this section of the Act that Congress declared and implemented the "National Emergency" of 1933.

*"Pursuant to authority provided in the "Emergency Banking Relief Act" of March 9, 1933; gold held by private persons in the United States was required to be surrendered to the Government" (48 Stat. 2, 12 USC 248). *

*"The "Gold Reserve Act" of 1934 prohibited private ownership of gold" (Munk, Dept. of the Treasury). These 'Acts' required all private gold (Property) to be surrendered to the government. Failure to do so resulted in criminal penalty."*

*"Lawful money" means "legal tender." In 1913, the Senate Committee on Banking and Currency included the following explanation in its report on the bill which became the Federal Reserve: "The terms 'lawful money' and 'legal tender' are different names for the same thing. The term 'lawful money' originated in the 'Act' of February 25, 1862, authorizing the issue of United States Notes. It was probably used in subsequent 'Acts,' because the term was comprehensive and, notwithstanding the fact that gold and silver coins were not then in circulation, it would necessarily embrace them, as well as Legal Tender Notes, whenever specie payments should be resumed. However, commonly the term "lawful money" has been applied to the United States Notes. 'Legal tender' is a quality given a circulating medium by Congress and possessing this quality, it becomes 'lawful money'.*

*"Senate Report Number 133, part 2, 63rd Congress, 1st Session, p. 107 (1933). Section 16*

of the 'Federal Reserve Act' of 1913 (12 USC 411) provided for the issuance of Federal Reserve notes but did not make them legal tender. Instead, it made them redeemable in gold or "lawful money" (legal tender) at the Federal Reserve Banks or in gold at the U.S. Treasury in Washington, D.C.. However, in 1933, the United States went off the domestic gold standard. The 'Gold Reserve Act' of 1934 amended Section 16, to provide that Federal Reserve Notes are redeemable in "lawful money" only. Redemption of any currency of the United States in gold was, and remains, prohibited (31 USC 5119).

"Federal Reserve notes are legal tender under 31 USC 5103, and are therefore "lawful money." United States notes have been discontinued (with the exception of the \$100 United States note), and Federal Reserve notes have become practically the only form of paper currency in circulation. Consequently, if a holder of Federal Reserve notes presents them for redemption in lawful money at the Treasury or at a Federal Reserve Bank, he is most likely to receive in exchange lawful money in the form of other Federal Reserve Notes." (Munk)

From this we see that "lawful money" originated in the "Act" of February 25, 1862. This was a wartime issuance done under the War Powers of the Civil War.

In 1913; Congress established the Federal Reserve to issue Federal Reserve Notes. Although the delegation of this power to a semi-quasi government agency was unconstitutional; the Federal Reserve Note itself was redeemable in Gold or Silver (a warehouse receipt) and was probably lawful. The "Federal Reserve Act" of 1913 did not declare these Federal Reserve Notes to be "lawful money."

It was not until 1933, when the Gold and Property were seized and the Federal Reserve Notes were declared non-redeemable, that the Federal Reserve Notes were declared "legal tender" or "lawful money" (31 USC 5103). Thus we see that "lawful money" and "legal tender" are both wartime or emergency issuances; to meet the extraordinary emergencies that occurred. However, following the emergency period, species payment must resume.

The preceding concept is critical to the understanding of the status of state citizens. The taking of private Property (Gold) was not a Common Law condemnation proceeding under the 5th Article of the Bill of Rights to the U.S. Constitution:

The Executive branch can legislate through Executive Orders, Decrees, Treaties, Foreign Agreements, and Alliances. The Executive Agents and Agencies (bureaucracy) legislate through Federal Rules and Regulations and the issuance of license.

The Judicial branch enforces the statutes, rules, and regulations in all cases whatsoever. The common citizen/subject has no standing/status to sue the constitutional validity of any of the above.

Substantive "Due Process" and "Summary Judgment" replace the "Procedural Due Process" of the "Common Law" and the Right to indictment and jury trial.

**Include:** To confine within, hold as in an inclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. (Black's Law Dict, 5th Ed.) -

**NOTE:** Most federal laws uses: "The term State includes" which means "limited to the following" such as the "District of Columbia," "Territories" and "Possessions." As the states no longer sit in Congress do to the purported ratification of U.S. Const., 17th Amendment; CONGRESS VERY SELDOM DEFINES THE TERM: "STATE" AS TO INCLUDE THE 50 FREELY ASSOCIATED COMPACT STATES OF THE UNITED STATES OF AMERICA IN ITS STATUTES. [e.g. 18 U.S.C. 921(2)].

**United States:** The "United States" is a "foreign corporation" to any of the (50) freely associated compact states of the (u)nited States of America [20 C.J.S. 1786; In re Merriam, 36 N.E. 505, 141 N.Y. 479, affirmed 16 S.Ct. 1073, 163 U.S. 625, 41 L.Ed. 287]

-COD-

CODIFICATION

Section is comprised of tenth par. of section 10 of act Dec. 23, 1913, as added Aug. 23, 1935. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

-CITE-

12 USC Sec. 248

01/05/99

-EXPCITE-

TITLE 12 - BANKS AND BANKING  
CHAPTER 3 - FEDERAL RESERVE SYSTEM  
SUBCHAPTER II - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

-HEAD-

Sec. 248. Enumerated powers

-STATUTE-

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a) Examination of accounts and affairs of banks; publication of weekly statements; reports of liabilities and assets of depository institutions; covered institutions

(1) To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature, and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under sections 461, 463, 464, 465, and 466 of this title exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 1813 of this title) or which is a member as defined in section 1422 of this title, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting

# THE TEN PLANKS OF THE COMMUNIST MANIFESTO

In 1848 Karl Marx and Frederick Engels wrote a book outlining a political ideology, titled "The Communist Manifesto". Marxism's basic theme is that the proletariat (*the "exploited" working class of a capitalistic society*) will suffer from alienation and will rise up against the "bourgeoisie" (*the middle class*) and overthrow the system of "capitalism." After a brief period of rule by "the dictatorship of the proletariat" the classless society of communism would emerge. In his Manifesto Marx described the following ten steps as necessary steps to be taken to destroy a free enterprise society. Notice how many of these conditions, foreign to the principles that our country was founded upon, have now, at the end of this millennium, been realized by the concerted efforts of socialist activists? Remember, government interference in your daily life and business is intrusion and deprivation of our liberties!

## First Plank:

*Abolition of property in land and the application of all rents of land to public purposes.*

(Zoning - Model ordinances proposed by Secretary of Commerce Herbert Hoover widely adopted. Supreme Court ruled "zoning" to be constitutional in 1921. Private owners of property required to get permission from government relative to the use of their property. Federally owned lands are leased for grazing, mining, timber usage's, the fees being paid into the U.S. Treasury.)

## Second Plank:

*A heavy progressive or graduated income tax.*

(Corporate Tax Act of 1909. The 16<sup>th</sup> Amendment, allegedly ratified in 1913. The Revenue Act of 1913, section 2, Income Tax. These laws have been purposely misapplied against American citizens to this day.)

## Third Plank:

*Abolition of all rights of inheritance.*

(Partially accomplished by enactment of various state and federal "estate tax" laws taxing the "privilege" of transferring property after death and gift before death.)

## Fourth Plank:

*Confiscation of the property of all emigrants and rebels.*

(The confiscation of property and persecution of those critical -"rebels" - of government policies and actions, frequently accomplished by prosecuting them in a courtroom drama on charges of violations of non-existing administrative or regulatory laws.)

## Fifth Plank:

*Centralization of credit in the hands of the State, by means of a national bank with State capital and an exclusive monopoly.*

(The Federal Reserve Bank, 1913--the system of privately-owned Federal Reserve banks which maintain a monopoly on the valueless debt "money" in circulation.)



**Sixth Plank:**

*Centralization of the means of communications and transportation in the hands of the State.*

(Federal Radio Commission, 1927; Federal Communications Commission, 1934; Air Commerce Act of 1926; Civil Aeronautics Act of 1938; Federal Aviation Agency, 1958; becoming part of the Department of Transportation in 1966; Federal Highway Act of 1916 (federal funds made available to States for highway construction); Interstate Highway System, 1944 (funding began 1956); Interstate Commerce Commission given authority by Congress to regulate trucking and carriers on inland waterways, 1935-40; Department of Transportation, 1966.)

**Seventh Plank:**

*Extension of factories and instruments of production owned by the State, the bringing into cultivation of waste lands, and the improvement of the soil generally in accordance with a common plan.*

(Department of Agriculture, 1862; Agriculture Adjustment Act of 1933 -- farmers will receive government aid if and only if they relinquish control of farming activities; Tennessee Valley Authority, 1933 with the Hoover Dam completed in 1936.)

**Eighth Plank:**

*Equal liability of all to labor. Establishment of industrial armies especially for agriculture.*

(First labor unions, known as federations, appeared in 1820. National Labor Union established 1866. American Federation of Labor established 1886. Interstate Commerce Act of 1887 placed railways under federal regulation. Department of Labor, 1913. Labor-management negotiations sanctioned under Railway Labor Act of 1926. Civil Works Administration, 1933. National Labor Relations Act of 1935, stated purpose to free interstate commerce from disruptive strikes by eliminating the cause of the strike. Works Progress Administration 1935. Fair Labor Standards Act of 1938, mandated 40-hour work week and time-and-a-half for overtime, set "minimum wage" scale. Civil Rights Act of 1964, effectively the equal liability of all to labor.)

**Ninth Plank:**

*Combination of agriculture with manufacturing industries, gradual abolition of the distinction between town and country, by a more equitable distribution of population over the country.*

(Food processing companies, with the co-operation of the Farmers Home Administration foreclosures, are buying up farms and creating "conglomerates.")

**Tenth Plank:**

*Free education for all children in public schools. Abolition of children's factory labor in its present form. Combination of education with industrial production.*

(Gradual shift from private education to publicly funded began in the Northern States, early 1800's. 1887: federal money (unconstitutionally) began funding specialized education. Smith-Lever Act of 1914, vocational education; Smith-Hughes Act of 1917 and other relief acts of the 1930's. Federal school lunch program of 1935; National School Lunch Act of 1946. National Defense Education Act of 1958, a reaction to Russia's Sputnik satellite demonstration, provided grants to education's specialties. Federal school aid law passed, 1965, greatly enlarged federal role in education, "head-start" programs, textbooks, library books.)

# Communists Originally Exempted from F.I.C.A.?

by Larry Becraft

Below you will find the definition of the term 'Employment' as it appears in Section 3121(b) of Title 26 of the United States Code (Internal Revenue Code). The full citation is '26 USC 3121(b)'. Please keep in mind that this particular definition of 'Employment' is in effect only within the chapter where the definition is located (Chapter 21). 'Employment' may be defined altogether differently within other chapters of Title 26 and within other titles of the United States Code.

In legal parlance such a term is called a 'term of art.' It is extremely important to pay close attention to terms of art when reading the Internal Revenue Code because terms of art are crafted to carry very specific meanings; they often do not mean what you might think they mean.

Chapter 21 of Title 26 deals with the Federal Insurance Contributions Act (FICA) and is divided into three subchapters: Subchapter A deals with tax on employees (FICA withheld from employee's pay); subchapter B deals with tax on employers (FICA paid by employer); and subchapter C deals with general provisions, including definitions of various terms of art, such as 'Wages,' 'Employment,' 'Employee,' 'American employer,' 'State, United States and citizen,' etc., used throughout the chapter. Please read the definition of 'Employment' as it relates to the imposition and collection of FICA taxes, examine para-

graph 17 (the 17th of 21 exceptions to this definition) and carefully consider the questions following the definition.

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From the U.S. Code Online via GPO Access [wais.access.gpo.gov] [Laws in effect as of January 6, 1999]

[Document not affected by Public Laws enacted between January 6, 1999 and April 7, 2000]

[CITE: 26USC3121] TITLE 26-- INTERNAL REVENUE CODE

Subtitle C--Employment Taxes  
CHAPTER 21--FEDERAL INSURANCE CONTRIBUTIONS ACT  
Subchapter C--General Provisions  
Sec. 3121. Definitions (a) Wages

[definition omitted for this example] (b) Employment For purposes of this chapter, the term "employment" means any service, of whatever nature, performed (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or

(B) outside the United States by a citizen or resident of the United States

as an employee for an American employer (as defined in subsection (h)), or

(C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act; except that such term shall not include- (emphasis added)

[paragraphs 1-16 omitted for this example]

(17) service in the employ of any organization which is performed (A) in any year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

[paragraphs 18-21 omitted for this example]

[end of quote]

Why was the definition of 'Employment' related to the imposition and collection of FICA taxes crafted to exclude service in the employ of registered 'Communist-action organizations,' 'Communist-front organizations' and 'Communist-infiltrated organizations'?

Since those in the employ of registered 'Communist-action organiza-

tions, 'Communist-front organizations' and 'Communist-infiltrated organizations' appear to be exempt from withholding of FICA taxes, does it follow that the aforementioned organizations are also exempt from paying FICA taxes? Does it bother you that Communists working within our borders to subvert our country might be exempt from paying the same taxes you pay? Is this the first time you have ever looked at any portion of the Internal Revenue Code?

After seeing this example, do you think it is possible that there may be other 'surprises' concealed within the Internal Revenue Code? Do you think it is possible that some other portion of the United States Code might permit Communists working within our borders to subvert our country to receive, upon their retirement or disability, Social Security, Medicare or Medicaid benefits without having paid into those systems? Would you mind supporting Communists in this manner with your tax dollars?

Does this example give credence

Continued on page 2

## Communists exempt

Continued from page 8

to the proposition that our tax system may have been deliberately crafted to give Communist and other subversive organizations and their workers a financial advantage over patriotic, hard-working Americans?

Does this example give credence to the long-standing proposition that our tax system is in fact representative of the second plank of The Commu-

nist Manifesto, a 'heavy progressive or graduated income tax'? After seeing this example, are you confident you can take our government at its word regarding the taxes it imposes upon you? What have you ever done to determine for yourself whether or not you are actually liable for the taxes you pay and how those taxes are used?

[Don't take our word for it. Look it up. It's in the book. - Ed.]

confirmation. But his opponents had added two influential senators to the already impressive weight of seven Bar Association presidents.

Evidence that the opposition would step up its barrage was soon at hand. Even before the sub-committee reported, Fox and Spence had distributed an imposing "Brief," with a title page bearing the imprint "United States Senate,"—all strikingly suggestive of an official document. It opened with a formal question: "Does the evidence show that Louis D. Brandeis has a defective standard of ethics?" The question was answered at great and misleading length. Charges, baseless even in the unsympathetic eyes of Cummins and Works, were again put forth at face value. Thus the Old Dominion case got four pages, though Cummins had expressed his contempt for it, saying: "Mr. Fitzgerald's testimony did not make the slightest impression on me," and Works had brushed it aside in disgust: "There is nothing in this charge worthy of consideration."<sup>9</sup>

A charge, omitted from the Fox brief, but widely circulated by gossips, was the incredible story of Mrs. Peck. A Boston lawyer, Frank N. Fay, passed this yarn on to the Reverend E. S. Meredith to persuade the clergyman to vote against Wilson in 1916. Said Fay:

It seems to me strange that you as a clergyman urge any man to vote for Mr. Wilson. Half the people in the United States know the general facts regarding his expensive acquaintance with Mrs. Peck of Washington. In fact the matter is so generally known that you ask any man who is Peck's Bad Boy, and with a smile, you will be told that it is Mr. Wilson.

Within a very short time from the death of his first wife, he was paying her marked attentions and wrote her a number of amorous letters. . . . Then his engagement was announced to the lady whom he subsequently married. Mrs. Peck promptly claimed breach of promise on his part, and the matter was put into the hands of her lawyers. Suit was threatened if not actually brought. It was settled by Louis D. Brandeis of Boston, and Samuel Untermyer of New York, acting as Mr. Wilson's attorneys, and the amount of money paid Mrs. Peck to secure these letters and prevent any damaging publicity was in the vicinity of \$75,000. It is an interesting fact that soon afterward Mr. Brandeis was appointed Justice of the Supreme Court of the United States.<sup>10</sup>

The Reverend Meredith later sent this letter to Brandeis, who replied:

No decent person should have been guilty of circulating this vile slander. For a lawyer to do so is unpardonable. It may interest you to know that I first heard the Peck story some time after my nomination, when my alleged connection with this matter was being whispered about by deliberate liars in the effort to defeat my confirmation.<sup>11</sup>

Other rumors without basis in fact went the rounds in Washington.

Brandeis A Free Man's Life  
1956

## Income and Finances

During the years for which figures are available (1901-1915), Brandeis's income from law practice totaled approximately \$1,096,489 and averaged about \$73,000 a year, the extremes being \$45,116 in 1902 and \$105,758 in 1912. In 1906-1907, after his father's death, he inherited \$70,488. His total estate as of 1915 and subsequent years and annual income follow:

YEAR	INVESTMENTS	INCOME FROM BRANDEIS, DUNBAR & NUTTER	GROSS INCOME (INCLUDING SUPREME COURT)	NET INCOME
1915	\$1,953,211	\$47,694	\$ 88,041	\$ 81,483
1916	2,056,996	37,919	99,164	90,551
1917	1,929,752	27,527	108,835	101,670
1918	1,996,177	2,714	111,085	90,046
1919	1,923,481	2,598	113,695	83,537
1920	1,849,693	2,180	113,294	94,964
1921	2,092,683	1,591	115,152	96,723
1922	2,246,515	1,290	121,344	97,777
1923	2,264,299	587	122,835	99,371
1924	2,379,072	642	122,732	105,014
1925	2,464,229		124,477	107,214
1926	2,590,380		129,559	114,665
1927	2,750,393		138,310	123,887
1928	2,699,075		144,325	130,074
1929	2,575,910		137,372	124,305
1930	2,586,141		138,783	127,056
1931	2,284,756		135,717	125,965
1932	2,301,327		135,875	127,783
1933	2,292,834		134,676	126,044
1934	2,732,332		139,120	130,650
1935	2,903,064		137,422	128,930
1936	3,130,700		139,399	131,197
1937	2,891,154		137,266	129,131
1938	2,948,131		136,395	128,146
1939	2,991,744		136,965	131,035
1940	3,138,441		133,821	124,551
Total		\$124,742	\$1,599,942	\$2,951,769

# Clinton declares War

THE WHITE HOUSE  
-Office of the Press Secretary

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For Immediate Release April 13, 1999

## EXECUTIVE ORDER DESIGNATION OF FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA/MONTENEGRO), ALBANIA, THE AIRSPACE ABOVE, AND ADJACENT WATERS AS A COMBAT ZONE

↙ Pursuant to the authority vested in me as President by the Constitution and laws of the United States of America, including section

112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I designate, for the purposes of that section, the following locations, including the airspace above such locations, as an area in which Armed Forces of the United States are and have been engaged in combat:

- The Federal Republic of Yugoslavia (Serbia/Montenegro);
- Albania;
- the Adriatic Sea;
- the Ionian Sea north of the 39th parallel.

For the purposes of this order, I designate March 24, 1999, as the date of the commencement of combatant activities in such zone.

WILLIAM J. CLINTON

THE WHITE HOUSE, April 13, 1999.

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"Sec. 111. Recovery of bad debts, prior taxes, and delinquency amounts.

"(a) General rule.

"Gross income does not include income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to such debt, tax, or amount.

"(b) Definitions.

"For purposes of subsection (a)—

"(1) Bad debt. The term 'bad debt' means a debt on account of the worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year.

"(2) Prior tax. The term 'prior tax' means a tax on account of which a deduction or credit was allowed for a prior taxable year.

"(3) Delinquency amount. The term 'delinquency amount' means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file return with respect to a tax or pay a tax.

"(4) Recovery exclusion. The term 'recovery exclusion' with respect to a bad debt, prior tax, or delinquency amount means the amount, determined in accordance with regulations prescribed by the Secretary, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this subtitle (not including the accumulated earnings tax imposed by section 531 or the tax on personal holding companies imposed by section 541) or corresponding provisions of prior income tax laws (other than subchapter E of chapter 2 of the Internal Revenue Code of 1959, relating to World War II excess profits tax), reduced by the amount excludable in previous taxable years with respect to such debt, tax, or amount under this section.

"(c) Special rules for accumulated earnings tax and for personal holding company tax.

"In applying subsections (a) and (b) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

"(1) a recovery exclusion allowed for purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not the bad debt, prior tax, or delinquency amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

"(2) where a bad debt, prior tax, or delinquency amount was not allowable as a deduction or credit for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then a recovery exclusion shall be allowable if such bad debt, prior tax, or delinquency amount did not result in a reduction of the tax under section 531 or the tax under section 541.

"(d) Increase in carryover treated as yielding tax benefit.

"For purposes of paragraph (4) of subsection (b), an increase in a carryover which has not expired shall be treated as a reduction in tax.

In '80, P.L. 96-589, Sec. 2(c), added subsec. (d), effective for any transaction which occurs after 12/31/80, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commencing on or before 12/31/80. Sec. 7(f) and (g) of this Act provides:

"(f) Election to substitute September 30, 1979, for December 31, 1980.

"(1) In general. The debtor (or debtors) in a bankruptcy case or similar judicial proceeding may (with the approval of the court) elect to apply [subsection 7(a) of this Act] by substituting 'September 30, 1979' for 'December 31, 1980' each place it appears in such subsections.

"(2) Effect of election. Any election made under paragraph (1) with respect to any proceeding shall apply to all parties to the proceeding.

"(3) Revocation only with consent. Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury or his delegate.

"(4) Time and manner of election. Any election under this subsection shall be made at such time, and in such manner, as the Secretary of the Treasury or his delegate may by regulations prescribe.

"(g) Definitions.

"For purposes of this section—

"(1) Bankruptcy case. The term 'bankruptcy case' means any case under title 11 of the United States Code (as recodified by Public Law 95-598).

"(2) Similar judicial proceeding. The term 'similar judicial proceeding' means a receivership, foreclosure, or similar proceeding in a Federal or State court (as modified by section 368(a)(2)(D) of the Internal Revenue Code of 1954).

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in para. (b)(4), effective for tax yrs. begin. after 12/31 '76.

## Sec. 112. Certain combat zone compensation of members of the Armed Forces.

### (a) Enlisted personnel.

Gross income does not include compensation received for active service as a member below the grade of commissioned officer in the Armed Forces of the United States for any month during any part of which such member—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

### (b) Commissioned officers.

Gross income does not include so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such officer—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

### (c) Definitions.

For purposes of this section—

(1) The term "commissioned officer" does not include commissioned warrant officer.

(2) The term "combat zone" means any area which the President of the United States by Executive Order designates, for purposes of this section or corresponding provisions of prior income tax laws, as an area in which the Armed Forces of the United States are or have (after June 24, 1950) engaged in combat.

(3) Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combatant activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; except that June 25, 1950, shall be considered the date of the commencing of combatant activities in the combat zone designated in Executive order 10195.

(4) The term "compensation" does not include pension and retirement pay.

(5) The term "maximum enlisted amount" means, for any month, the sum of—

(A) the highest rate of basic pay payable for such month to any enlisted member of the Armed Forces of the United States at the highest pay grade applicable to enlisted members, and

(B) in the case of an officer entitled to special pay under section 310 of title 37, United States Code, for such month, the amount of such special pay payable to such officer for such month.

**(d) Prisoners of war, etc.**

(1) **Members of the armed forces.** Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict as a result of such conflict, other than a period with respect to which it is officially determined under section 552(c) of such title 37 that he is officially absent from his post of duty without authority.

(2) **Civilian employees.** Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam conflict as a result of such conflict. For purposes of this paragraph, the terms "active service," "employee," and "missing status" have the respective meanings given to such terms by section 5561 of title 5 of the United States Code.

(3) **Period of conflict.** For purposes of this subsection, the Vietnam conflict began February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam. For purposes of this subsection, an individual is in a missing status as a result of the Vietnam conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam.

In '96, P.L. 104-188, Sec. 1704(t)(4)(A), substituted "combat zone compensation" for "combat pay" in the heading of Code Sec. 112, effective 8/20/96.

—P.L. 104-117, Sec. 1(a)(2) and (b), of this Act, regarding treatment of certain individuals performing services in certain hazardous duty areas, effective 11/21/95, provides:

"(a) General rule. For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

\* \* \*

"(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

\* \* \*

"(b) Qualified hazardous duty area. For purposes of this section, the term 'qualified hazardous duty area' means Bosnia and Herzegovina, Croatia, or Macedonia, if as of the date of the enactment [3/20/96] of this section any member of the Armed Forces of the United States is entitled to special pay under section 310 of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes any such country only during the period such entitlement is in effect. Solely for purposes of applying section 7508 of the Internal Revenue Code of 1986, in the case of an individual who is performing services as part of Operation Joint Endeavor outside the United States while deployed away from such individual's permanent duty station, the term 'qualified hazardous duty area' includes, during the period for which such entitlement is in effect, any area in which such services are performed."

—P.L. 104-117, Sec. 1(d)(1), substituted "the maximum enlisted amount" for "\$500" in subsec. (b)... Sec. 1(d)(2), added para. (c)(5), effective 11/21/95.

In '76, P.L. 94-569, Sec. 3(b), substituted "after January 1978" for "beginning more than 2 years after the date of the enactment of this sentence" in the last sentence of subsecs. (a) and (b), effective 10/20/76.

In '75, P.L. 93-597, Sec. 2(a), deleted "during an induction period" in paras. (a)(1) and (b)(1); substituted "but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone" for "during an induction period; but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone as determined under subsection (c)(3) of this section" in paras. (a)(2) and (b)(2); added the final sentence in subsecs. (a) and (b), effective 7/1/73.

—P.L. 93-597, Sec. 2(b), deleted para. (c)(5), effective 7/1/73.

Prior to deletion, para. (c)(5) read as follows:

"(5) The term 'induction period' means any period during which, under laws heretofore or hereafter enacted relating to the induction

of individuals for training and service in the Armed Forces of the United States, individuals (other than individuals liable for induction by reason of a prior deferment) are liable for induction for such training and service."

In '72, P.L. 92-279, Sec. 1, added subsec. (d), effective for tax yrs. end. on or after 2/28/61. Sec. 3(a)(2) and (3), of this Act, provides as follows:

"(2) If refund or credit of any overpayment for any taxable year resulting from the application of the amendment made by the first section of this Act (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in paragraph (3) by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such applicable period.

"(3) For purposes of paragraph (2), the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is the later:

"(A) the day which is one year after the date of the enactment of this Act, or

"(B) the day which is 2 years after the date on which it is determined that the individual's missing status (within the meaning of section 112(d) of the Internal Revenue Code of 1954) has terminated for purposes of such section 112."

In '66, P.L. 89-739, Sec. 11(b), substituted "\$500" for "\$200" in subsec. (b), effective for compensation received in tax yrs. end. after 12/31/65, for periods of active service after such date.

**Sec. 113. Repealed.**

In '90, P.L. 101-508, Sec. 11801(a)(7), repealed Code Sec. 113, effective 11/5/90 except as provided in Sec. 11821(b) of this Act, reproduced in note following Code Sec. 110.

Prior to repeal, Code Sec. 113 read as follows:

"SEC. 113. MUSTERING-OUT PAYMENTS FOR MEMBERS OF THE ARMED FORCES.

"Gross income does not include amounts received during the taxable year as mustering-out payments with respect to service in the Armed Forces of the United States."

**Sec. 114. Repealed.**

In '90, P.L. 101-508, Sec. 11801(a)(8), repealed Code Sec. 114, effective 11/5/90, except as provided in Sec. 11821(b) of this Act reproduced in note following Code Sec. 110.

Prior to repeal, Code Sec. 114 read as follows:

"SEC. 114. SPORTS PROGRAMS CONDUCTED FOR THE AMERICAN NATIONAL RED CROSS.

"(a) General rule.

"In the case of a taxpayer which is a corporation primarily engaged in the furnishing of sports programs, gross income does not include amounts received as proceeds from a sports program conducted by the taxpayer if—

"(1) the taxpayer agrees in writing with the American National Red Cross to conduct such sports program exclusively for the benefit of the American National Red Cross;

"(2) the taxpayer turns over to the American National Red Cross the proceeds from such sports program, minus the expenses paid or incurred by the taxpayer—

"(A) which would not have been so paid or incurred but for such sports program; and

"(B) which would be allowable as a deduction under section 162 (relating to trade or business expenses) but for subsection (b) of this section; and

"(3) the facilities used for such program are not regularly used during the taxable year for the conduct of sports programs to which this subsection applies.

For purposes of this subsection, the term 'proceeds from such sports program' includes all amounts paid for admission to the sports program, plus all proceeds received by the taxpayer from such program or activities carried on in connection therewith.

"(b) Treatment of expenses.

"Expenses described in subsection (a)(2) shall be allowed as a deduction under section 162 only to the extent that such expenses exceed the amount excluded from gross income by subsection (a) of this section."

**Sec. 115. Income of states, municipalities, etc.**

Gross income does not include—

(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

THE AGE OF ROOSEVELT

The Coming *of*  
the New Deal

ARTHUR M. SCHLESINGER, JR.



HOUGHTON MIFFLIN COMPANY BOSTON

*The Riverside Press Cambridge*

1959

and took great care to distinguish it from the British system of compulsory unemployment insurance. But there was also sentiment in America for a scheme based more directly on the insurance principle. In 1932 the Ohio Commission on Unemployment Insurance came up with a proposal which differed from the Wisconsin plan in two important particulars. Instead of a system of separate reserves held by individual concerns, the Ohio plan proposed that contributions be pooled in a single fund; and it called for contributions from both employers and workers instead of from employers alone. The Ohio plan differed from the British plan, however, in not envisaging government contributions.

Some American experts felt that even the Ohio plan was inadequate. Of these the most influential was Abraham Epstein, who was executive secretary of the American Association for Old Age Security, and a fluent and powerful writer in the social security field. Epstein not only favored pooled funds as against individual employer accounts but also could see no escape from government participation on the British model. In this, he was joined by other experts, notably Professor Paul Douglas of the University of Chicago. For Epstein and Douglas, the Wisconsin plan was particularly defective in its assumption that an individual firm could sufficiently control economic conditions as to deserve reward or punishment for its employment record; it seemed evident by 1933 that mass unemployment was the result of conditions beyond the control of a single firm or a single industry.

Yet the Wisconsin plan, despite its critics, enjoyed the advantage of being in operation. Moreover, it had devoted and eloquent apostles, especially Paul A. Raushenbush and his wife Elizabeth, the daughter of Mr. Justice Brandeis. In the fall of 1933 the Raushenbushes met in Washington (the meeting was in the Brandeis apartment; the Justice was absent) with a group of liberal businessmen, like Henry Dennison and Edward A. Filene, and young New Dealers, among them Charles E. Wyzanski, Jr., and Thomas H. Eliot of the Labor Department, and Thomas G. Corcoran. The Raushenbush mission was to persuade the administration to induce other states to adopt unemployment compensation acts along the line of the Wisconsin law. To achieve this, Raushenbush submitted an ingenious plan invented by Brandeis — a payroll tax on employers with the



provision that in states where unemployment compensation laws had been passed employers' contributions for that purpose could be deducted from the federal tax. Under this approach, states could have unemployment insurance systems without new costs to handicap employers in interstate competition. The proposal set certain minimum standards but in the main left ample room for local experimentation in the Brandeis tradition. Frances Perkins showed a lively interest in the idea; and Eliot and Raushenbush soon drew up a bill which Senator Wagner and Representative David J. Lewis of Maryland introduced into Congress, in February 1934.<sup>3</sup>

## v

In the meantime, corresponding progress was being made toward provision for the aged. Here there was a longer tradition of national concern. The Progressive platform of 1912 had called for old-age pensions, and in the years following a number of states investigated the possibility of pension laws. In the twenties, eight states passed optional laws, and with the depression there was a great swing to mandatory legislation. In 1933 alone, ten states passed mandatory acts. Yet in all these laws payments were based on need; coverage varied tremendously; and nearly half the states had no laws at all. To Epstein and his Association for Old Age Security, as well as to many others, there seemed a pressing need for federal action.

Epstein's proposal was that the government offer states grants-in-aid equal to a third of the sum spent for pensions. Senator Clarence C. Dill of Washington and Representative William P. Connery, Jr., of Massachusetts introduced a bill to this effect in 1932; and by 1934 the House had passed the bill and the Senate Pensions Committee had given it a favorable report.

By the spring of 1934, then, both the Wagner-Lewis and the Dill-Connery bills had developed momentum. It was clear that if the administration did not take action soon its hand would be forced. Roosevelt, indeed, had endorsed the Wagner-Lewis bill in March. But, though committed to the principle of both bills, he was not yet convinced on details; and he was strongly pressed, especially by Tugwell, who disliked the Wagner-Lewis approach, to allow time for further study. Moreover, the President was beginning to believe that

**General****110 (11-15-85)**  
**Introduction**

57(16)0

**111 (11-15-85)**  
**Purpose**

57(16)0

(1) The Legal Reference Guide for Revenue Officers is intended to make available to revenue officers and other Collection activity personnel the fundamentals of legal knowledge needed in their daily activities. The results of recent legislation and recent court decisions have been incorporated into the revised text.

(2) While the Legal Reference Guide for Revenue Officers has been established as a Handbook keyed to the Internal Revenue Manual, it is not the source of procedural instructions. Revenue officers and other Internal Revenue Service personnel must still look to the basic Manual provisions outside the Handbook for such instructions.

(3) Constant study and use of the information contained in the Handbook is needed for it to be most beneficial; however, such study is not intended to make lawyers of the users and it is not a substitute for any required referral of cases through proper channels to Counsel.

**112 (11-15-85)**  
**Local Law Section**

57(16)0

(1) In order to maintain a viable reference guide, the impact of local law on subject matter of the Handbook needs to be included and made part of the handbook.

(2) Each jurisdiction should prepare local law material as it pertains to the laws of the States in its area.

(3) It is suggested that each Assistant Regional Commissioner (Collection) request the Regional Counsel to prepare the necessary material. The choice of subject matter is to be discretionary between them.

(4) So far as it is feasible, the numbering sequence in local law material should correspond to that of the Handbook. For example, if the local law material deals with the filing of notice of lien, it should be keyed to Section 230 of the handbook.

(5) The Assistant Regional Commissioner (Collection) will arrange for the printing of the material for his/her region. The general guidelines in IRM 1(17)30 should be followed.

**113 (11-15-85)**  
**Distribution**

57(16)0

(1) This Handbook is being distributed under a distribution schedule which provides copies for Assistant Regional Commissioners (Collection), National and Regional Training Centers, and each attorney in Regional Counsel offices. At the district level (including Office of International Operations) distribution should be made to all Chiefs, Collection Division; Chiefs, Special Procedures function; Special Procedures function advisors and reviewers; Chiefs, Field Branch; Chiefs, Office Branch; Group Managers; and Revenue Officers. Distribution at the National Office level should be made to Chief Counsel (General Litigation Division); Director, Collection Division; and Collection Division Branch Chiefs and analysts.

(2) It is suggested that distribution of all local law material for your jurisdiction be made to all Revenue Officers in the region to complement the Handbook text. Special Procedures function advisors and reviewers, Division Chiefs and Branch Chiefs in the Collection activity, and Regional and District Counsels and their attorneys should be included in the distribution. Seventy-five copies of the local law material should be sent to the Director, Collection Division, National Office. In addition, provision should be made to furnish each revenue officer trainee a copy of the Handbook text and the local law material for the trainee's area of assignment when entering on duty.

**120 (11-15-85)**  
**Functions and Organization of Office of Chief Counsel**

57(16)0

**121 (11-15-85)**  
**Statutory Basis**

57(16)0

(1) Internal Revenue Code of 1954 (hereinafter cited as IRC), Section 7801(b) provides, among other things, for the office of General Counsel for the Department of the Treasury and the office of an Assistant General Counsel to serve as Chief Counsel of the Internal Revenue Service. Consequently, the Chief Counsel, as an Assistant General Counsel, is subject to the supervision of the General Counsel and answerable to that office in matters of broad policy. Attorney personnel actions in the Chief Counsel's office are subject to the approval of

**Exhibit (12)00-1 Cont. (4)****Glossary of Legal Terms** ◇

**Preference.** The act of an insolvent debtor who, in distributing property or in assigning it for the benefit of creditors, pays or secures to one or more of his/her creditors the full amount of their claim, or a larger amount than they would be entitled to receive were the distribution made under the authority of the bankruptcy or other court.

**Prima Facie.** The appearance of a matter on its face without digging beneath the surface. In legal procedure or evidence, sufficient to establish the cause of action or fact, unless rebutted.

**Privity.** Mutual or successive relationship to the same rights of property as executor and testator, heir and ancestor, assignee and assignor, donee and donor, and lessee and lessor.

**Quantum Meruit.** As much as deserved. The reasonable value of services rendered absent a contract price.

**Quasi.** A term used in legal phraseology to indicate that one subject resembles another but that there are basic differences between them.

**Remainder.** The balance of an interest in land after a prior estate, created by the same instrument, which will arise at the end of such prior estate. In wills, it is the residue after all specific bequests have been satisfied.

**Reversion.** Differs from remainder in that it refers to the balance of the interest in land left in the grantor or his/her heirs as opposed to a third party.

**Res.** A thing. The object or subject matter of the action being taken.

**Res Judicata.** (Often misspelled as "res adjudicata") A rule of law that a final judgment or decree on the merits by a court having jurisdiction is conclusive of the rights of the same parties in all later suits on all points involved in the former suit.

**Revised Statutes.** A body of statutes which have been revised, collected, arranged in order, and re-enacted as a whole. This is the legal title of the collections of compiled laws of several of the states, and also of the United States. Such a volume is usually cited as "Rev. Stat.", "Rev. St.", or "R.S."

**Situs.** Legal term meaning location or place, and usually used to refer to personal property for the purposes of taxation, jurisdiction, etc.

**Stare Decisis.** The rule or policy of courts, usually followed in all cases, to stand by precedent and not to disturb a settled point; to stand by decided cases; evidence of the law until changed by competent authority.

**Subrogation.** The substitution under certain limited and technical situations of one person in the place of another so that he/she who is substituted succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or securities.

**Substituted Service.** Service of process upon a defendant in any manner, authorized by statute, other than personal service within the jurisdiction; as by publication.

**Supersedeas.** A stay of proceedings ordered by an appellate court to the trial court suspending the issuance of execution on the judgment. Usually accompanied by a supersedeas bond to prevent damage to the successful plaintiff.

**Supra.** Citation term meaning above, used in court opinions and legal writings to refer to matters previously referred to.

**Surrogate, Surrogate Court.** In some states the judge and court who have jurisdiction over probate and guardianship matters.

**Tort.** A wrong or injury to one's person or property committed independent of any contractual relationship.

**Ultra Vires.** Descriptive terms for acts of a corporation beyond the scope of its powers as defined by its charter or act of incorporation.

**Venue.** A particular county or city in which a court with jurisdiction may hear and determine a case; the place at which an action is tried.

**Warranty.** A promise made as part of a contract, orally or in writing, that a certain fact is true.

**Presume.** To assume beforehand. In a more technical sense, to believe or accept upon probable evidence. *See* Presumption.

**Presumed intent.** A person is presumed to intend the natural and probable consequences of his voluntary acts. The government is not required in crimes to prove that a defendant intended the precise consequences of his act and his criminal intent can be inferred from his act.

**Presumption.** An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. *Van Wart v. Cook*, Okl.App., 557 P.2d 1161, 1163. A legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence. *Port Terminal & Warehousing Co. v. John S. James Co.*, D.C.Ga., 92 F.R.D. 100, 106.

A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. *Calif.Evid.Code*, § 600.

In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. *Federal Evidence Rule 301.*

*See also* Disputable presumption; Inference; *Juris et de jure*; Presumptive evidence; *Prima facie*; Raise a presumption.

*Commercial law.* A presumption means that the trier of fact must find the existence of the fact presumed unless

**Inference.** In the law of evidence, a truth or proposition drawn from another which is supposed or admitted to be true. A process of reasoning by which a fact or proposition sought to be established is deduced as a logical consequence from other facts, or a state of facts, already proved or admitted. A logical and reasonable conclusion of a fact not presented by direct evidence but which, by process of logic and reason, a trier of fact may conclude exists from the established facts. *State v. Hyde*, Mo.App., 682 S.W.2d 103, 106. *Computer Identics Corp. v. Southern Pacific Co.*, C.A.Mass., 756 F.2d 200, 204. Inferences are deductions or conclusions which with reason and common sense lead the jury to draw from facts which have been established by the evidence in the case.

*See also* Reasonable inference rule. *Compare* Presumption.

**Inference on inference, rule of.** Means that one presumption or inference may not be based upon another. *McManimen v. Public Service Co. of Northern Illinois*, 317 Ill.App. 649, 47 N.E.2d 385.

and until evidence is introduced which would support a finding of its non-existence. U.C.C. § 1-201(31).

**Conclusive presumptions.** A conclusive presumption is one in which proof of basic fact renders the existence of the presumed fact conclusive and irrebuttable. Such is created when a jury is charged that it must infer the presumed fact if certain predicate facts are established. *People v. Sellers*, 3 Dept., 109 A.D.2d 387, 492 N.Y.S.2d 127, 128. Few in number and often statutory, the majority view is that a conclusive presumption is in reality a substantive rule of law, not a rule of evidence. An example of this type of presumption is the rule that a child under seven years of age is presumed to be incapable of committing a felony. The Federal Evidence Rules (301, 302) and most state rules of evidence are concerned only with rebuttable presumptions. *Compare Rebuttable presumption, below.*

**Conflicting presumptions.** See *Inconsistent presumptions below.*

**Inconsistent presumptions.** If presumptions are inconsistent, the presumption applies that is founded upon weightier considerations of policy. If considerations of policy are of equal weight neither presumption applies. Uniform Rules of Evidence. Rule 301(b).

**Irrebuttable presumption.** See *Conclusive presumptions, above.*

**Mandatory presumption.** See *Conclusive presumptions, above.*

**Permissive presumption.** One which allows, but does not require, trier of fact to infer elemental fact from proof by prosecutor of basic one, and which places no burden of any kind on defendant. *State v. Scott*, 8 Ohio App.3d 1, 8 O.B.R. 1, 455 N.E.2d 1363, 1368.

**Presumptions of fact.** Such are presumptions which do not compel a finding of the presumed fact but which warrant one when the basic fact has been proved. The trend has been to reject the classifications of presumptions of "fact" and presumptions of "law". See *Inference.*

**Presumptions of law.** A presumption of law is one which, once the basic fact is proved and no evidence to the contrary has been introduced, compels a finding of the existence of the presumed fact. The presumption of law is rebuttable and in most cases the adversary introduces evidence designed to overcome it. The trend has been to reject the classifications of presumptions of "law" and presumptions of "fact."

**Procedural presumption.** One which is rebuttable, which operates to require production of credible evidence to refute the presumption, after which the presumption disappears. *Maryland Cas. Co. v. Williams*, C.A.Miss., 377 F.2d 389, 394, 35 A.L.R.3d 275.

**Rebuttable presumption.** A presumption that can be overturned upon the showing of sufficient proof. In general, all presumptions other than conclusive presumptions are rebuttable presumptions. Once evidence tending to rebut the presumption is introduced, the

force of the presumption is entirely dissipated and the party with the burden of proof must come forward with evidence to avoid a directed verdict. *Compare Conclusive presumptions, above.*

**Statutory presumption.** A presumption, either rebuttable or conclusive, which is created by statute in contrast to a common law presumption; e.g. I.R.C. § 6062 (individual's name on tax return is prima facie evidence of his authority to sign return).

**Presumption of death.** A presumption which arises upon the disappearance and continued absence of a person from his customary location or home for an extended period of time, commonly 7 years, without any apparent reason for such absence. *Magers v. Western & Southern Life Ins. Co.*, C.A.Mo., 335 S.W.2d 355.

**Presumption of innocence.** A hallowed principle of criminal law to the effect that the government has the burden of proving every element of a crime beyond a reasonable doubt and that the defendant has no burden to prove his innocence. It arises at the first stage of the criminal process but it is not a true presumption because the defendant is not required to come forward with proof of his innocence once evidence of guilt is introduced to avoid a directed verdict of guilty.

Presumption of innocence succinctly conveys the principle that no person may be convicted of a crime unless the government carries the burden of proving his guilt beyond a reasonable doubt but it does not mean that no significance at all may be attached to the indictment. *U. S. v. Friday*, D.C.Mich., 404 F.Supp. 1343, 1346.

**Presumption of legitimacy.** Whenever it is established in an action that a child was born to a woman while she was the lawful wife of a specified man, the party asserting the illegitimacy of the child has the burden of producing evidence and the burden of persuading the trier of fact beyond reasonable doubt that the man was not the father of the child. *Bernheimer v. First Natl. Bank*, 359 Mo. 1119, 225 S.W.2d 745; Model Code of Evidence, Rule 703.

**Presumption of survivorship.** A presumption of fact, to the effect that one person survived another, applied for the purpose of determining a question of succession or similar matter, in a case where the two persons perished in the same catastrophe, and there are no circumstances extant to show which of them actually died first, except those on which the presumption is founded, viz., differences of age, sex, strength, or physical condition.

**Presumption of validity.** In patent law, the holder of a patent is entitled to a statutory presumption of validity. *Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation*, 402 U.S. 313, 335, 338, 91 S.Ct. 1434, 1447, 28 L.Ed.2d 788. 35 U.S.C.A. § 282.

**Presumptive.** Resting on presumption; created by or arising out of presumption; inferred; assumed; supposed; as, "presumptive" damages, evidence, heir, notice, or title.

**Presumptive evidence.** Prima facie evidence or evidence which is not conclusive and admits of explanation or contradiction; evidence which must be received and

treated as true and sufficient until and unless rebutted by other evidence, i.e., evidence which a statute says shall be presumptive of another fact unless rebutted. See *Presumption*; *Prima facie evidence.*

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

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

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

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

That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all of the other probative evidence presented. *Godesky v. Provo City Corp., Utah*, 690 P.2d 541, 547. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact, in the absence of proof, or until proof can be obtained or produced to overcome the inference.

*See also* Presumptive evidence.

## Disclosure, Privacy Act, and Paperwork Reduction Act Notice

The IRS Restructuring and Reform Act of 1998, the Privacy Act of 1974, and Paperwork Reduction Act of 1980 require that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 requires that you provide your social security number or individual taxpayer identification number on what you file. This is so we know who you are, and can process your return and other papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund or provide your daytime telephone number.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or its

instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Generally, tax returns and return information are confidential, as stated in Code section 6103. However, Code section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to

review the Internal Revenue Service. We may also disclose your tax information to Committees of Congress; Federal, state, and local child support agencies; and to other Federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

### The Time It Takes To Prepare Your Return

We try to create forms and instructions that can be easily understood. Often this is difficult to do because our tax laws are very complex. For some people with income mostly from wages, filling in the forms is easy. For others who have businesses, pensions, stocks, rental income, or other investments, it is more difficult.

### We Welcome Comments on Forms

If you have comments concerning the accuracy of the time estimates shown below or suggestions for making these forms simpler, we would be happy to hear from you. You can e-mail us your suggestions and comments through the IRS Internet Home Page ([www.irs.ustreas.gov](http://www.irs.ustreas.gov)) or write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send your return to this address. Instead, see the back cover.

### Estimated Preparation Time

The time needed to complete and file Form 1040 and its schedules will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS	Totals
Form 1040	3 hr., 34 min.	2 hr., 25 min.	4 hr., 55 min.	40 min.	11 hr., 34 min.
Sch. A	2 hr., 32 min.	28 min.	1 hr., 10 min.	20 min.	4 hr., 28 min.
Sch. B	33 min.	8 min.	11 min.	20 min.	1 hr., 12 min.
Sch. C	6 hr., 28 min.	1 hr., 11 min.	2 hr., 8 min.	35 min.	10 hr., 18 min.
Sch. C-EZ	48 min.	4 min.	34 min.	20 min.	1 hr., 44 min.
Sch. D	1 hr., 11 min.	2 hr., 18 min.	2 hr., 37 min.	35 min.	6 hr., 41 min.
Sch. D-1	13 min.	1 min.	11 min.	35 min.	1 hr.
Sch. E	2 hr., 52 min.	1 hr., 7 min.	1 hr., 18 min.	35 min.	5 hr., 50 min.
Sch. EC	-----	2 min.	5 min.	20 min.	27 min.
Sch. F:					
Cash Method	4 hr., 2 min.	36 min.	1 hr., 14 min.	20 min.	6 hr., 12 min.
Accrual Method	4 hr., 22 min.	25 min.	1 hr., 19 min.	20 min.	6 hr., 28 min.
Sch. H	48 min.	30 min.	48 min.	35 min.	2 hr., 39 min.
Sch. J	20 min.	8 min.	1 hr., 8 min.	20 min.	1 hr., 56 min.
Sch. R	20 min.	15 min.	20 min.	35 min.	1 hr., 30 min.
Sch. SE:					
Short	20 min.	13 min.	11 min.	14 min.	58 min.
Long	28 min.	22 min.	34 min.	20 min.	1 hr., 42 min.

## IRS code sections 6001, 6011, and 6012(a)

According to the IRS, their legal right to ask for information is IRC 6001, 6011, and 6012(a) and their regulations. They say that you must "file a return or statement with us for any tax you are liable for." (quoted from page 51, of the 1040 Instructional Booklet).

Does that mean you have to file a return for taxes that you are NOT liable for?

Does it state **who** is liable? Who *is* liable?

Does it state what liability is? What *is* liability?

Does this state that this is their right to ask you for information?

Does it state **from whom** information may be requested?

Does it state from whom information can actually be requested under these laws?

Does it state exactly what type of information they can request?

Do these code sections list the consequences of being liable?

Do these code sections state that you are made liable somewhere else in the code?

Were you ever notified by the Commissioner or District Director to keep books and records?

Do these sections state that you are required to make such returns, render such statements, or keep such records?

If so, which records, which statements and which returns are required?

Do these code sections apply to employers?

Do these code sections state employers are liable for a tax?

Do these code sections establish liability elsewhere in the code?

Do these sections apply to internal revenue tax, income tax, excise tax, or any BATF type of tax?

What is the implementing regulations for these sections of the code?

Who is to administer these sections of the code: IRS, or BATF?

How much are they going to pay you to maintain all those books and records and then to store them?

You may wish to order IRS Seminar, Level III (includes CD with 22,000 pages, a 220 page book, 3 videos and 6 audio tapes) \$300

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



-MISC1-

Part

- I. Records, statements, and special returns.
- II. Tax returns or statements.
- III. Information returns.
- IV. Signing and verifying of returns and other documents.
- V. Time for filing returns and other documents.
- VI. Extension of time for filing returns.
- VII. Place for filing returns or other documents.
- VIII. Designation of income tax payments to Presidential Election Campaign Fund.

AMENDMENTS

1966 - Pub. L. 89-809, title III, Sec. 302(b), Nov. 13, 1966, 80 Stat. 1588, added item VIII.

-SECRET-

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6103, 6651 of this title.

-CITE-

26 USC PART I - RECORDS, STATEMENTS, AND SPECIAL RETURNS 01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART I - RECORDS, STATEMENTS, AND SPECIAL RETURNS

-HEAD-

PART I - RECORDS, STATEMENTS, AND SPECIAL RETURNS

-MISC1-

Sec.

6001. Notice or regulations requiring records, statements, and special returns.

-CITE-

X → 26 USC Sec. 6001

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART I - RECORDS, STATEMENTS, AND SPECIAL RETURNS

-HEAD-

Sec. 6001. Notice or regulations requiring records, statements, and special returns

-STATUTE-

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep

such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 731; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), 90 Stat. 1834; Nov. 6, 1978, Pub. L. 95-600, title V, Sec. 501(a), 92 Stat. 2878; Sept. 3, 1982, Pub. L. 97-248, title III, Sec. 314(d), 96 Stat. 605.)

-MISC1-

AMENDMENTS

1982 - Pub. L. 97-248 inserted '', records necessary to comply with section 6053(c),'' after ''charge receipts''.

1978 - Pub. L. 95-600 inserted provision at end relating to only records which an employer shall be required to keep in connection with charged tips.

1976 - Pub. L. 94-455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to calendar years beginning after Dec. 31, 1982, see section 314(e) of Pub. L. 97-248, set out as a note under section 6053 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 501(c) of Pub. L. 95-600 provided that: ''The amendments made by this section (amending this section and section 6041 of this title) shall apply to payments made after December 31, 1978.''

-CROSS-

CROSS REFERENCES

Methods of accounting for taxable income, see section 446 et seq. of this title.

-SECF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 874, 911, 922, 4403, 6033 of this title.

-CITE-

26 USC PART II - TAX RETURNS OR STATEMENTS

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

\* (Subtitle F) - Procedure and Administration

CHAPTER 61 - INFORMATION AND RETURNS

Subchapter A - Returns and Records

PART II - TAX RETURNS OR STATEMENTS

-HEAD-

PART II - TAX RETURNS OR STATEMENTS

-MISC1-

Subpart

A. General requirement.

B. Income tax returns.

C. Estate and gift tax returns.

D. Miscellaneous provisions.

-CITE-

26 USC Subpart A - General Requirement

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART II - TAX RETURNS OR STATEMENTS  
Subpart A - General Requirement

-HEAD-

Subpart A - General Requirement

-MISC1-

Sec.

6011. General requirement of return, statement, or list.

-CITE-

→ 26 USC Sec. 6011

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART II - TAX RETURNS OR STATEMENTS  
Subpart A - General Requirement

-HEAD-

Sec. 6011. General requirement of return, statement, or list

-STATUTE-

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) Identification of taxpayer

The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) Returns, etc., of DISCS and former DISCS and FSC's and former FSC's

(1) Records and information

A DISC or former DISC or a FSC or former FSC shall for the taxable year -

(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B) keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) Authority to require information concerning section 912 allowances

(Sept. 2, 1964) occurred.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 911, 6501, 6724 of this title; title 42 section 405.

-CITE-

26 USC Subpart B - Income Tax Returns

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART II - TAX RETURNS OR STATEMENTS  
Subpart B - Income Tax Returns

-HEAD-

Subpart B - Income Tax Returns

-MISC1-

Sec.

6012. Persons required to make returns of income.  
6013. Joint returns of income tax by husband and wife.  
6014. Income tax return - tax not computed by taxpayer.  
(6015, 6016. Repealed.)  
6017. Self-employment tax returns.  
(6017A. Repealed.)

AMENDMENTS

1989 - Pub. L. 101-239, title VII, Sec. 7711(b)(3), Dec. 19, 1989, 103 Stat. 2393, struck out item 6017A 'Place of residence'.  
1984 - Pub. L. 98-369, div. A, title IV, Sec. 412(c)(1), July 18, 1984, 98 Stat. 792, struck out item 6015 'Declaration of estimated income tax by individuals.'  
1972 - Pub. L. 92-512, title I, Sec. 144(a)(2), Oct. 20, 1972, 86 Stat. 935, added item 6017A.  
1968 - Pub. L. 90-364, title I, Sec. 103(e)(7), June 28, 1968, 82 Stat. 264, struck out item 6016 'Declarations of estimated income tax by corporations.'

-SECRET-

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6011 of this title.

X  
→ -CITE-

26 USC Sec. 6012

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter A - Returns and Records  
PART II - TAX RETURNS OR STATEMENTS  
Subpart B - Income Tax Returns

-HEAD-

Sec. 6012. Persons required to make returns of income

-STATUTE-

(a) General rule

Returns with respect to income taxes under subtitle A shall be made by the following:

(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual -

(i) who is not married (determined by applying section 7703), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

(B) The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

(C) The exception under subparagraph (A) shall not apply to any individual -

(i) who is described in section 63(c)(5) and who has -

(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or

(II) total gross income in excess of the standard deduction, or

(ii) for whom the standard deduction is zero under section 63(c)(6).

(D) For purposes of this subsection -

(i) The terms "standard deduction", "basic standard deduction" and "additional standard deduction" have the respective meanings given such terms by section 63(c).

(ii) The term "exemption amount" has the meaning given such term by section 151(d). In the case of an individual described in section 151(d)(2), the exemption amount shall be zero.

(2) Every corporation subject to taxation under subtitle A;

(3) Every estate the gross income of which for the taxable year is \$600 or more;

(4) Every trust having for the taxable year any taxable income,

-CITE-

26 USC Sec. 6102

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter B - Miscellaneous Provisions

-HEAD-

Sec. 6102. Computations on returns or other documents

-STATUTE-

(a) Amounts shown on internal revenue forms

The Secretary is authorized to provide with respect to any amount required to be shown on a form prescribed for any internal revenue return, statement, or other document, that if such amount of such item is other than a whole-dollar amount, either -

(1) the fractional part of a dollar shall be disregarded; or

(2) the fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by \$1.

(b) Election not to use whole dollar amounts

Any person making a return, statement, or other document shall be allowed, under regulations prescribed by the Secretary, to make such return, statement, or other document without regard to subsection (a).

(c) Inapplicability to computation of amount

The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Subsecs. (a), (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

-CROSS-

CROSS REFERENCES

Fractional parts of a cent, see section 6313 of this title.

Fractional parts of a dollar, see section 7504 of this title.

-CITE-

→ 26 USC Sec. 6103

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
\* Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter B - Miscellaneous Provisions

-HEAD-

Sec. 6103. Confidentiality and disclosure of returns and return information

-STATUTE-

(a) General rule

Returns and return information shall be confidential, and except as authorized by this title -

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (1)(7)(D) who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (6), (12), or (16) of subsection (1), paragraph (2) or (4)(B) of subsection (m), or subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term 'officer or employee' includes a former officer or employee.

(b) Definitions

For purposes of this section -

(1) Return

The term 'return' means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information

The term 'return information' means -

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) Taxpayer return information

The term 'taxpayer return information' means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration

*Section 7. Induction to the Bar.*

(A) Each applicant accepted for admission to the practice of law in Ohio must have his or her name entered on a roll and shall take the following oath of office:

**YOUR STATEMENT OF THE FOLLOWING OATH  
INDICATES THAT YOU EITHER SWEAR OR  
AFFIRM TO BE BOUND BY THE OATH:**

I, \_\_\_\_\_, hereby accept my responsibilities as a member of the bar;

I will support the Constitution and the laws of the United States and the Constitution and the laws of Ohio;

I will in all respects observe and abide by the Code of Professional Responsibility adopted by the Supreme Court of Ohio;

I will represent my clients zealously within the bounds of the law, and will not knowingly assert any unwarranted claim or defense, take any unjust action, or employ or countenance any undue influence, deception, falsehood or fraud;

I will attend to my clients' affairs with diligence, dispatch and competence, free from compromising influences and conflicting interests, and preserve the confidence of my clients; ,

I will deal scrupulously with all funds and property of others, preserving the separate identity of the same, and strictly accounting for my stewardship;

I will discharge the duties of attorney and counselor at law as an officer of the courts of this State and of the United States, to the best of my knowledge and ability. (So help me God.)

(B) The Court shall present the applicant with a certificate of admission. A duplicate certificate shall not be issued by the Court unless the original certificate is lost or destroyed. A replacement certificate may be issued to a licensed attorney who has had a legal change of name.



# FREEDOM OF INFORMATION

*CB Zinger* 

Under the Freedom of Information Act (FOIA) and Privacy Act you may file for virtually anything the government has in its files that reference you. You may demand copies of anything the government has in any file, department, agency or databank that is indexed under your name, social security number or other identifier. The above laws may be used to supplement criminal discovery. You may also file a Vaughn request which will allow you to find out which files the government has on you that your not aware of. See Vaughn, 484 F2d 820.

E.P.A. V. MINK, 410 US 73, 35 LEd2d 119, 93 SCt 827 (1973)

Requires the release of segregable portions of a file which was partially exempt.

VAUGHN V. ROSEN, 484 F2d 820 (D.C. Cir. 1973)

Vaughn requires a detailed indexing of requested documents and the rationale for applying exemptions.

DEPT. OF AIR FORCE V. ROSE, 425 US 352, 48 LEd2d 11, 96 SCt 1592 (1976)

"Disclosure, not secrecy, is the dominant objective of the Act." Leading case on Exemption #6.

WEISBERG V. DEPT. OF JUSTICE, 705 F2d 1344 (D.C. Cir. 1983)

To meet its burden an agency must demonstrate that it has conducted a "Search reasonably calculated to uncover all relevant documents."

JULIAN V. DEPT. OF JUSTICE, 806 F2d 1411 (9th Cir. 1986)

CROOKER V. US PAROLE COMMISSION, 760 F2d 1 (D.C. Cir. 1985)

Presentence investigation reports are "agency records" when they are in the possession of the parole commission and thus must be disclosed by Commission upon request of prisoners who are subjects of reports.

HINTON V. DEPT. OF JUSTICE, 844 F2d 126 (3rd Cir. 1988)

The government tried to appeal a judge's order for preparation of a VAUGHN index and they lost.

US DEPT. OF JUSTICE V. TAX ANALYSTS, 492 US 136, 106 LEd2d 112, 109 SCt 2841 (1989)

The Supreme Court favorably broadened their interpretation of what constitutes "Agency Records" under the FOIA Act.

DEPARTMENT OF STATE V. RAY, 502 US 164, 116 LEd2d 526, 112 SCt 541 (1991)

Exemption 6 of Freedom of Information Act held to authorize deletion of names and other identifying information from reports of interviews with Haitian Nationals returning to Haiti after attempting illegal immigration.

SELLERS V. BUREAU OF PRISONS, 959 F2d 307 (DC Cir. 1992)

As long as information contained in agency's files is capable of being verified, then, under Privacy Act, agency must take reasonable steps to maintain accuracy of information to assure fairness to individual and, if agency willfully or intentionally fails to maintain its records in that way, and consequently makes determination adverse to individual, it will be liable to that person for money damages.

## ***FREEDOM OF INFORMATION***

US DEPT. OF JUSTICE V. LANDANO, 508 US \_\_\_\_\_, 124 LEd2d 84, 113 SCt \_\_\_\_\_ (1993)  
Government held not entitled to presumption that all sources supplying info are exempt.

MAYNARD V. CIA, 986 F2d 547 (1st Cir. 1993)

Under the FOIA Government retains at all times burden of proving exempt status of withheld documents (Authors note: also a good case on VAUGHN index's).

NORWOOD V. FAA, 993 F2d 570 (6th Cir. (1993)

Exemptions to Freedom of Information Act are to be narrowly construed.

MASSEY V. FBI, 3 F3d 620 (2nd Cir. 1993)

Court construes statutory exemption provided in the FOIA narrowly with doubts resolved in favor of disclosure.

US DEPT. OF DEF. V. FED. LABOR RELATIONS AUTHORITY, 510 US \_\_\_\_\_, 127 LEd2d 325, 114 SCt 1006 (1994)

Privacy Act held to forbid disclosure of federal employees' addresses to labor unions pursuant to requests made under Federal Service Labor-Management Relations Statute.

DETROIT FREE PRESS, INC. V. DEPT. OF JUSTICE, 73 F3d 93 (6th Cir. 1996)

By enacting Freedom of Information Act (FOIA), Congress evidenced general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language; disclosure, not secrecy, is dominant objective of FOIA, and any exemptions to that disclosure requirement must be narrowly construed.

BIBLES V. OREGON NATURAL DESERT ASS'N, 519 US \_\_\_\_\_, 136 LEd2d 825, 117 SCt \_\_\_\_\_ (1997)

A complicated case regarding a federal agency's mailing list and what is exempt from disclosure under FOIA exemption 5.

# ENTRAPMENT

US V. YOUNG, 954 F2d 614 (10th Cir. 1992)

Once credible entrapment defense is raised, prosecution has the burden of proving, beyond a reasonable doubt, that the defendant was not entrapped.

US V. NUNEZ, 958 F2d 196 (7th Cir. 1992)

Defendant waived any entrapment defense he might have offered at trial by pleading guilty.

US V. SKARIE, 971 F2d 317 (9th Cir. 1992)

US V. SALMON, 948 F2d 776 (D.C. Cir. 1991)

With respect to affirmative defense of entrapment, "inducement" is government behavior that would cause unprejudiced person to commit crime.

US V. GLEASON, 980 F2d 1183 (8th Cir. 1992)

Government conduct in promoting the commission of a crime may be so outrageous as to violate fundamental fairness regardless of defendant's predisposition.

US V. HUDSON, 985 F2d 160 (5th Cir. 1993)

Once defendant makes prima facie showing entrapment so as to be entitled to jury instruction thereon, burden shifts to government to prove beyond reasonable doubt that defendant was disposed to commit criminal act prior to first being approached by government agents.

US V. STRAACH, 987 F2d 232 (5th Cir. 1993)

Defense of entrapment is not available if there is evidence that defendant was predisposed to commit the crime.

US V. NEAL, 990 F2d 355 (8th Cir. 1993)

- 1) Affirmative defense of entrapment has two related elements: government inducement of crime, and defendant's lack of predisposition to engage in criminal conduct.
- 2) Entrapment results from impugment by government agent, not private citizen.

US V. GROLL, 992 F2d 755 (7th Cir. 1993)

Confidential informant is "agent" of government for entrapment purposes.

US V. GARZA-JUAREZ, 992 F2d 896 (9th Cir. 1993)

Even though misconduct did not raise to level of entrapment or outrageous government conduct, it mitigated seriousness of defendant's participation in crimes and warranted a downward departure in the Sentencing Guidelines.



# ***ENTRAPMENT***

US V. MITCHELL, 915 F2d 521 (9th Cir. 1990)

When undercover agents or informers engineer and direct criminal enterprise from start to finish, due process prevents conviction of even predisposed defendant.



US V. IVEY, 949 F2d 759 (5th Cir. 1991)

Entrapment defense is available to defendant even if defendant denies committing acts upon which criminal charge is based.

US V. SKARJE, 971 F2d 317 (9th Cir. 1992)

With respect to affirmative defense of entrapment, "inducement" is government behavior that would cause unpredisposed person to commit crime.

US V. HUDSON, 985 F2d 160 (5th Cir. 1993)

US V. YOUNG, 954 F2d 614 (10th Cir. 1992)

Once defendant makes prima facie showing entrapment so as to be entitled to jury instruction

thereon, burden shifts to government to prove beyond reasonable doubt that defendant was disposed to commit criminal act prior to first being approached by government agents.

US V. GARZA-JUAREZ, 992 F2d 896 (9th Cir. 1993)

Even though misconduct did not raise to level of entrapment or outrageous government conduct, it mitigated seriousness of defendant's participation in crimes and warranted a downward departure in the Sentencing Guidelines.

US V. DANIEL, 3 F3d 775 (4th Cir. 1993)

HAMPTON V. US, 425 US 484, 48 LEd2d 113, 96 SCt 1646 (1976)

- 1) Entrapment has 2 related elements; government inducement of crime and lack of predisposition on part of defendant to engage in criminal conduct.
- 2) "Predisposed defendant" for purposes of defendant's allegation of entrapment, is one who is ready and willing to commit the offense.

US V. DAVIS, 15 F3d 902 (9th Cir. 1994)

Where informant was clearly acting on behalf of government before inducing defendant, informant is government agent, for purposes of entrapment defense.

US V. ELDEEB, 20 F3d 841 (8th Cir. 1994)

When entrapment is an issue, government must prove absence of entrapment beyond a reasonable doubt.

US V. LAKICH, 23 F3d 1203 (7th Cir. 1994)

For purposes of entrapment defense, "predisposed" individual is one who is prepared and eager for opportunity to commit crime.

# ***ENTRAPMENT***

US V. HOLLINGSWORTH, 27 F3d 1196 (7th Cir. 1994)

Defense of "derivative entrapment" exists if private person, himself entrapped, acts as agent of conduit for government efforts at entrapment of others.

US V. ACOSTA, 67 F3d 334 (1st Cir. 1994)

US V. AL-TALIB, 55 F3d 923 (4th Cir. 1995)

Purpose of entrapment doctrine is to ensure that government does not implant in mind of innocent person the disposition to commit alleged offense and induce its commission.

US V. RAMIREZ-RANGEL, 103 F3d 1501 (9th Cir. 1997)

"Sentencing entrapment" occurs when defendant, although predisposed to commit minor or lesser offense, is entrapped into committing greater offense subject to greater punishment.

US V. WILLIAMS, 109 F3d 502 (8th Cir. 1997)

Entrapment occurs when government agent causes or induces defendant to commit crime he was not otherwise predisposed to commit. \_

US V. THICKSTUN, 110 F3d 1394 (9th Cir. 1997)

- 1) Only government official or agent can entrap defendant.
- 2) Principal wrongdoer, not knowingly working for government, cannot entrap his coconspirator.



# APPOINTMENT AFFIDAVITS

Commissioner of Internal Revenue  
*(Position to which appointed)*

November 13, 1997  
*(Date of appointment)*

Department of Treasury  
*(Department or agency)*

Internal Revenue Service  
*(Bureau or Division)*

Washington, D.C.  
*(Place of employment)*

I, CHARLES O. ROSSOTTI, do solemnly swear (or affirm) that—

## A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

## B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

## C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.

Charles O. Rossotti  
*(Signature of appointee)*

Subscribed and sworn (or affirmed) before me this 13 day of November, 1997

at Washington, D.C.  
*(City)*

Mr. [Signature]  
*(Signature of officer)*

[SEAL]

Commission expires \_\_\_\_\_  
*(If by a Notary Public, the date of expiration of his/her Commission should be shown)*

Deputy Commissioner of Internal Revenue  
*(Title)*

NOTE.—The oath of office must be administered by a person specified in 5 U.S.C. 2905. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm the affidavits.

FREEDOM OF INFORMATION ACT REQUEST

District Director  
Internal Revenue Service  
Mailing Address  
City, State, Zip

You are hereby put on NOTICE that your Name  
letter must be filed as a permanent Mailing Address  
of my IRS/TDA/AIMS/IMF 23C record. If  
such record(s) have/has been deleted or  
substituted, this demand still applies. # 000-00-0000  
Recorders Initial \_\_\_\_\_

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 Individual Master File (IMF); Data Services, Treasury/IRS 24.030, which pertain to Requester.

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

(NOTARY)

**AFFIDAVIT**

State of                    )  
                                  )  
County of                )       SS

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

Further affiant sayeth nought.

\_\_\_\_\_  
Name Name

\_\_\_\_\_  
Notary Public



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 (1-1-85)

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.

↙ (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

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer  
Internal Revenue Service

FROM:

Name Name

Account # xxx-xx-xxxx

Dear 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 is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: 199 ; 199 ; 199 ; 199 ; 199
5. Please send a copy of the Notice of Assessment Form 23C which is specific to Me and no other and which indicates the alleged liability.

**DATED:**

Respectfully,

Name Name, Requester

# Assessment Certificate

Summary Record of Assessments

1. Service Center

3. Prepared by

4. Number

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)				Total Assessments
	Tax	Penalty	Interest	No. of Items	Tax	Penalty	Interest	No. of Items	
Withheld individual income and FICA									
Individual income - other									
Corporation income and excess profits									
Excise									
Estate and gift									
Tax on carriers and their employees									
Federal unemployment tax act									
<b>Total Assessments</b>									

6. Prepared From Accounting Input Reconciliation Sheets

5. Jeopardy Assessments Against Principal Taxpayers  
(Included in the assessments above)

Date and Number

Through

Date and Number

Number of principal taxpayers

Total assessed against principal taxpayers

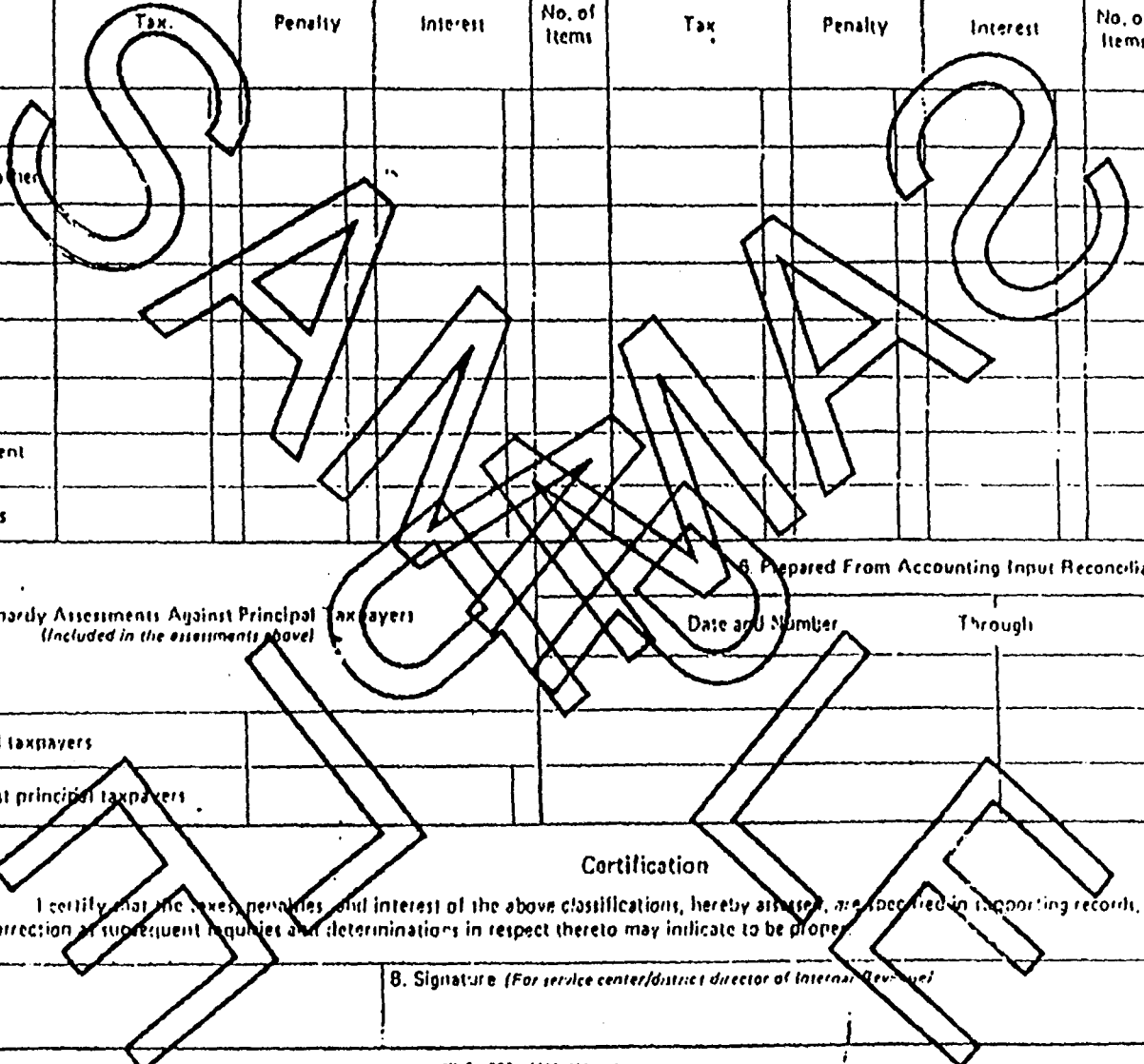
### Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are reported in supporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

7. Date

8. Signature (For service center/district director of Internal Revenue)

Assessment Officer



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# Assessment Certificate

## Summary Record of Assessments

1. Service center **Cincinnati**  
 2. Date **June 28, 1982**  
 3. Prepared by **R. Carter**  
 4. Number **17-313**

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)					Total Assessments (1)	
	Tax & Penalty (a)		Interest (b)		Tax & Penalty (c)		Interest (d)		No. of Items (e)		
Withheld individual income and FICA	1,434,557,499	77	1,229,526	91	31,223	14	8,894	34	28	1,435,827,144	16
Individual income—other	969,052,434	22	1,101,945	20	1,417,152	18	283,901	52	1,945	971,855,433	12
Corporation income and excess profits	80,646,299	85	207,052	67	159,961	61	32,407	01	53	81,045,721	14
Excise	32,295,739	17	12,708	98	64,929	94	13,149	52	38	32,386,527	61
Estate and gift	2,755,952	49	117,475	55	57,772	66	9,845	17	13	2,941,045	87
Tax on carriers and their employees	204	94	18	60	-0	--	-0	--	0	223	54
Federal unemployment tax act	852,757	66	63,833	04	222	20	45	94	4	916,858	84
<b>Total Assessments</b>	<b>2,520,160,888</b>	<b>10</b>	<b>2,732,560</b>	<b>95</b>	<b>1,731,261</b>	<b>73</b>	<b>348,243</b>	<b>50</b>	<b>2,081</b>	<b>2,524,972,954</b>	<b>28</b>

### 5. Jeopardy Assessments Against Principal Taxpayers (Included in the assessments above)

### 6. Prepared From Accounting Assessment Journals

Date and Number	Through	Date and Number
BMF, IMF & IRA Service Center Recaps		Cycle 8224
For Assessment Week Ending June 28, 1982		
BMF Jrl 4-6-11	IMF Jrl 4-6-12	IRA Jrl 4-6-13

### Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in supporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

7. Date **June 28, 1982**  
 8. Signature (For service center director of Internal Revenue)  
*Sylvia G. Hermann*  
 Assessment Officer

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**3(17)(46)2.3** (1-1-96)  
**Pre-Journalization**

(1) Pre-journalized items include all daily assessments, Remit Extensions of Time to File and accounts transferred-in. See IRM 3(17)(46)4.2 for further information.

(2) Pre-Journalized assessments are input through the Daily Assessment screens. The screen will show the 23C date based on the weekly schedule and must be overlaid.

(3) Each block of pre-journalized assessment source documents should contain the following information:

- (a) 23C date
- (b) Journal clerk's initials
- (c) Journal number
- (d) NMF status

**3(17)(46)2.4** (1-1-96)  
**Post-Journalization**

(1) Post-journalized items include all weekly assessments and all other subsequent transactions including payments which are not determined as advanced payments. See IRM 3(17)(46)4.3 for further information.

(2) Post journalized assessments are input through the Weekly Assessments screen. The screen will show a 23C date that cannot be overlaid.

(3) Any post-journalized action taken on ANMF (i.e.; assessment, status change, subsequent transaction, account transfer-out, etc.) will generate a RACS Recap. All RACS Recaps are printed on 3 part paper. Part 1 is attached to the documents and retained in NMF. Parts 2 and 3 are forwarded to RACS for journalization.

(4) RACS will receive the following Recaps from NMF for post-journalization. These Recaps will be forwarded under the cover of the Transmittal Recap of RACS Summaries which lists all RACS Summaries generated on a given day. RACS will verify receipt of all Recaps on the transmittal by signature and date.

- (a) NMF Current Assessment Recap
- (b) NMF Deficiency Assessment Recap
- (c) NMF SCCF Recap
- (d) NMF NON-SCCF Recap
- (e) NMF NON-SCCF Recap of 54/47 Doc code
- (f) NMF NON-SCCF Recap—OIC
- (g) NMF Status Change 290
- (h) NMF Status Change TC 53X Recap

(5) All assessments must be journalized to conform with the 23C date indicated on each Recap.

(6) All Recaps must be journalized the same month as the transaction date indicated on each Recap. This is the month the transaction posted to the taxpayer account.

(7) After journalization, RACS will stamp the journal number on both parts 2 and 3 of the Recap and input the journal number to the UPDATE JRN'L screen. Part 2 of the Recap is retained in RACS in summary number order. Part 3 is sent back to NMF and filed by journal number.

(8) Weekly, RACS receives an Unprocessed Block List and a Recap of Journalized RACS Summaries.



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

(3) RACS replaces the various "paper" journal forms previously used to record accounting transactions. Journalization and posting to the General Ledger accounts is accomplished by input to RACS.

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

(5) All references to journalization mean input to RACS. All accounting transactions must be journalized to ensure effective accounting control. Prior to Automated NMF, all transactions were pre-journalized. All NMF transactions will now be either pre-journalized or post journalized as dictated by the 23C date.

### 3(17)(46)2.2 (1-1-96) Block Control

(1) RACS will receive blocks of documents and prepare the Form 813 if one is not present. Each document must be numbered. All debits and credits must be listed on the Form 813.

(2) When the Form 813 is completed, stamp it with the ANMF processing stamp and initial it when the function is performed. (The Non-Master File System was previously named the Manual Accounting Replacement System (MARS). The MARS stamp may be used in lieu of an ANMF stamp.) If the Form 813 contains pre-journalized items, be sure to annotate the Form 813 with the journal number, 23C date and NMF status at this time. If the Form 813 contains post journalized items, this information will be included on the various RACS Recaps and will be annotated on Form 813 at the time RACS receives the Recap. See IRM 3(17)(46)4.4 and 4.5 for further information.

	<b>ANMF STAMP</b>
OE _____	(original key entry)
KV _____	(key verification)
PR _____	(proof read)
813 _____	(Form 813 preparation & entry to the Form 813. Block Control)

(3) Choose the option NMF Block Control/Correction from the Journal Main menu. Input the following information to the Form 813 Block Control screen: See IRM 3(17)(46)(15).5 for entry information.

- (a) Form 813 date as transaction date
- (b) Form 813 DLN
- (c) Item count
- (d) Total debit, and
- (e) Total credit

(4) Initial the ANMF stamp for "813" after the Form 813 Block Control screen entries are completed.

(5) RACS is the only function that can enter, correct or change (UPDATE) the Block Control information.

(6) Forward the Forms 813 and related documents to NMF for further processing.

(Reference: Text 104.3.22.6.6.3)

Alpha/Numeric  
S.C. Block No.

1

Document Register

- Perfect
- Imperfect
- Regular
- Estimated

B  
I  
D  
o  
L  
c  
N  
k

Batch Cr. Number	Court Code	Trans. Code	Date
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		01	
		02	
		03	
		04	
		05	
		06	
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		08	
		09	4
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		42	
		44	
		45	
		46	
		47	
		48	
		49	
	5	Total	6
●	7	Adjustment	
		Adjusted Total	

Form **813** (2 Part)(Rev. 8-77)



Internal Revenue Service

Department of the Treasury

Internal Revenue  
Service Center Cincinnati, OH

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

Person to Contact  
Ms. Alering/17-14638  
Telephone Number:  
(606) 292-5662 (not toll-free  
Hours:  
7:30 a.m. - 4:00 p.m.  
Refer Reply to:  
0-308  
Date: **MAR 15 2000**

Dear Mr. [redacted]

This is in response to your Freedom of Information Act (FOIA) request, certified mail number Z 012 490 874, which we received in our office on February 01, 2000, and a duplicate request, certified mail number Z 012 490 872, which we received in our office on March 13, 2000.

↙ In Request 1 you are requesting a copy of the 23C assessment form specific to you, signed by the assessment officer and dated.

↙ Our records indicate that the Taxpayer Advocate's Office furnished the Summary Record of Assessment, RACS 006 Reports, (otherwise known as the Form 23C) for tax years 1994-1996 in their letter to you dated January 31, 2000, (copy enclosed).

Please note that RACS Reports do not identify specific taxpayers by name. The Summary Record of Assessments are aggregates of taxes, interest, and penalties assessed on a given business day. The RACS reports also reflect the assessment officer's signature.

↙ The RACS Report 006 is the same as the Form 23C. While the RACS Report does not specifically say "23C" it is indeed the Summary Record of Assessment. The RACS 006 is the automated equivalent of Form 23C, which has taken the place of the manual Form 23C. The two documents are synonymous, equal in all respects, the only difference being that in the event the automated Revenue Accounting Control System (RACS) is inoperable, then a manual Form 23C, would be prepared which would include information identical to that which would have been entered on the RACS Report 006.

As a courtesy, we are also enclosing a copy of the Delegation Order SC-C 802, Appointment of Assessment Officer, which we hope may be of assistance to you.

↓  
In addition, we are also enclosing a copy of page 86 from the current IRM dated 10/01/99 with 3.17.63.14.4(2), 3.17.63.14.5(2), and 3.17.63.14.6(2) highlighted. These sections state that assessments must be recorded on the Summary Record of Assessments (Assessment Certificate), and that the Assessment Certificate is the legal document that permits collection activity.

In Request 2 you are requesting a copy of the SFR (Substitute for Return), which was signed by you for the tax periods 1994-1996.

Please be advised the SFR is prepared by the Service, and is not signed by you. In the event an individual fails to file an income tax return; Section 6020(b) provides the authority for the Secretary to execute a return for that individual based upon all available information. That executed return is considered to be sufficient for all legal purposes. As a courtesy, we are enclosing a copy of the 1996 SFR, which was prepared by an employee in our service center. The substitute for returns, which were prepared for tax years 1994 and 1995, would be under the jurisdiction of the Ohio District Disclosure Officer. We will be transferring this portion of your request to the Ohio District Disclosure Officer for response. Should you wish to follow up on this request, the address to which to write is Ohio District Disclosure Officer, P.O. Box 1818, Room 7019, Cincinnati, OH 45201.

In Requests 3, and 4 you are requesting the identity of the revenue officer that prepared the SFR's and a copy of the individual's affidavit, job description and appointment.

The SFR's for tax years 1994 and 1995 were prepared in the Ohio District. The records, to the extent they exist, would be under the jurisdiction of the Ohio District. We will be transferring this portion of your request to the Ohio District Disclosure Officer for response. The 1996 SFR was prepared by an employee of the Cincinnati IRS Center, however, we are unable to determine the name of the employee who prepared the SFR.

In Request 5 you are requesting a copy of the delegation of authority order.

Enclosed is a copy of Delegation Order No. 182, which specifically addresses the delegation of authority to prepare or execute returns required by any Internal Revenue law or regulation when the person required to file such return fails to do so.

Internal Revenue Code Sections 6211 and 6212 provide all the authority for the Secretary to determine if a deficiency in respect to tax exists. If it does, the Secretary is authorized to send a notice of such deficiency to the taxpayer by certified mail or registered mail. Code sections 6201 and 6301 provide all the authority for the Secretary to assess all taxes determined by the Secretary to be owed under the law and to collect those taxes.

While the Code is available at many bookstores and public libraries throughout the country, it is also available to you upon a written Freedom of Information Act (FOIA) request, in accordance with 26 CFR 601.702 to: FOIA Reading Room, P.O. Box 795, Ben Franklin Station, Washington, D.C. 20044. The cost for duplicating the entire code is approximately \$500. If you are not interested in obtaining the entire Code, you may submit a request that identifies the specific sections, by number, that you desire.

If you are requesting copies of documents identifying employees, appointment documents, delegations of authority, and documents which describe the procedural format of delegation orders, please be advised, delegation orders authorize employees to perform specific duties or activities and are generally issued by position or title and not by an employee's name.

You can obtain copies of the Internal Revenue Service delegation orders by writing to the Freedom of Information Act Reading Room, P.O. Box 795, Ben Franklin Station, Washington, DC 20044. Be sure to specify that you want Internal Revenue Manual (IRM) 1229, Handbook of Delegation Orders.

If you are seeking copies of the local Cincinnati Service Center Delegation Orders, you will need to be more specific in your request by specifying either the title of the delegation order or the delegation order number that you are seeking.

If you are seeking copies of the delegation orders from the District Director, you will need to submit your request for a specific delegation order to the District Disclosure Officer. We can only furnish documents, which are under the jurisdiction of the Cincinnati IRS Centers.

In Request 6 you are seeking a copy of documents that disclose the identification number of the group and branch to which the requester's case has been assigned.

Our records indicate that your 1994, 1995, and 1996 tax returns are no longer assigned to an Examination group. The collection activity on your account has been assigned to the Collection Division of the Ohio District, and would also be under the jurisdiction of the Ohio District Disclosure Officer.

In Request 7 you are requesting a copy of all documents maintained in the Classification and Examination Files.

The Examination activity for tax years 1994 and 1995 are under the jurisdiction of the Ohio District. The records, to the extent they exist, would also be under the jurisdiction of the Ohio District. We will be transferring this portion of your request to the Ohio District Disclosure Officer for response.

We are enclosing a copy of the Examination file pertaining to tax year 1996, consisting of 26 pages.

Notice 393 is enclosed to explain your appeal rights.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Michael Ormond".

Michael Ormond  
Disclosure Officer

Enclosures

63.14.4 (10-01-1999)  
**Account 6120**  
**Individual**  
**Income Tax**  
**Assessments—**  
**Principal**

- (1) This account is used to summarize the total amounts of assessments of tax class 2 **Principal** as provided by the Internal Revenue Code. The balance of this account represents total tax class 2 **principal** assessments for the year.
- (2) All **principal** assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.
- (3) Total tax class 2 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

63.14.5 (10-01-1999)  
**Account 6121**  
**Individual**  
**Income Tax**  
**Assessments—**  
**Penalty**

- (1) This account is used to summarize the total amounts of assessments of tax class 2 **Penalties** as provided by the Internal Revenue Code. The balance of this account represents total tax class 2 **penalty** assessments for the year.
- (2) All **penalty** assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.
- (3) Total tax class 2 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

63.14.6 (10-01-1999)  
**Account 6122**  
**Individual**  
**Income Tax**  
**Assessments—**  
**Interest**

- (1) This account is used to summarize the total amounts of assessments of tax class 2 **Interest** as provided by the Internal Revenue Code. The balance of this account represents total tax class 2 interest assessments for the year.
- (2) All **interest** assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.
- (3) Total tax class 2 **Assessments** for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

63.14.7 (10-01-1999)  
**Account 6130**  
**Corporation Tax**  
**Assessments—**  
**Principal**

- (1) This account is used to summarize the total amounts of assessments of tax class 3 **Principal** as provided by the Internal Revenue Code. The balance of this account represents total tax class 3 **principal** assessments for the year.
- (2) All **principal** assessments must be recorded on summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.



<b>DELEGATION ORDER</b>		<b>ORDER NUMBER</b> SC-C 802 (Rev. 4)
<b>SUBJECT</b>  <i>Appointment of Assessment Officer</i>	<b>ISSUE DATE</b> October 1, 1994	
	<b>EFFECTIVE DATE</b> October 1, 1994	
<b>ISSUED TO</b>  Chief, Management Support Branch Chief, Accounting Section, Management Support Branch	<b>SUPERSEDES</b> SC-C 802 (Rev. 3) Appointment of Assessment Officer, March 1, 1994	
	<b>AUTHORITY</b> Internal Revenue Code, Section 6201 Regulations, 301.6201-1, Regulations 301.6203-1	<b>RELATED MATERIAL</b> Accounting Control, 3(17)(63) SC and MCC Accounting and Data Control 3(17)(46) Automated Non-Masterfile Accounting
<b>DELEGATION</b>		

You are appointed as Assessment Officer to sign the Summary Record of Assessments.  
This authority may not be redelegated.

ISSUED BY (Signature and Title)

*Fanny C. Hoain, Acting*

Director, Cincinnati Service Center

IR-C Gen 274 (Rev. 11-82)

Gal. No. 8574SU

Department of the Treasury - Internal Revenue Service

2.95 (Effective Date: 05-05-1997) **Execute Returns (Updated 11/24/1999 to reflect new organizational titles required by IRS Modernization.)**

**Order Number  
182 (Rev. 7)**

- (1) **Authority:** To prepare or execute returns required by any internal revenue law or regulation when the person required to file such return fails to do so.
- (2) **Delegated to:** Internal Revenue Agents; Tax Auditors; Revenue Officers, GS-9 and above; Collection Support function managers, GS-9 and above; Automated Collection Branch Managers, GS-9 and above; Service Center Collection Branch Managers GS-9 and above; Detroit Computing Center Employment Tax Adjustment Program (ETAP) Support Managers, GS-9 and above.
- Note:** This authority is also delegated to Automated Collection Branch Unit Managers GS-11 and above; Customer Service Collection Branch Managers GS-10 and above; Tax Resolution Representatives GS-9 and above.
- (3) **Redelegation:** This authority may not be redelegated.
- (4) **Sources of Authority:** 26 CFR 301.6020-1(b) and 26 CFR 301.7701-9.
- (5) To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 182 (Rev. 6), effective October 12, 1994.
- (6) Signed: John M. Dalrymple, for James E. Donelson, Acting Chief Compliance Officer

# DELEGATION ORDER

DO 114 Rev. 4

OFFICE:  
Ogden Service Center

SUBJECT:  
APPOINTMENT OF ASSESSMENT OFFICERS AND AUTHORITY TO SIGN ASSESSMENT DOCUMENTS

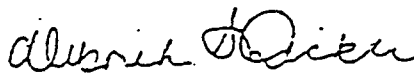
DELEGATION:  
Federal Income Tax Regulation  
NO. 301.6203-1

DATE OF ISSUE:  
February 23, 1998

EFFECTIVE DATE  
February 23, 1998

1. The Chief, Accounting Branch and the Night Manager are appointed as Assessment Officers.
2. The authority to sign Form 23C, Assessment Certificate or the Summary Record of Assessments, is hereby delegated to:

Chief, Accounting Branch  
Night Manager

  
Director

EFFECT ON OTHER DOCUMENTS:  
Supersedes Delegation Order No. 114, Rev. 3  
Dated October 17, 1995

REDELEGATION:

Authority may not be redelegated.

Authority may be redelegated as specified in text.

DISTRIBUTION:  
1200  
1272  
3.17.63

Form-10434 (12-95)  
Previously issued as MSR Form-0007 (11-96), 500-1-147 and ROWR Form 416

Catalog No. 23376L

Department of the Treasury-Internal Revenue Service

Internal Revenue Service



Department of the Treasury

201 W. Rivercenter Blvd., Stop 11  
Covington, KY 41019  
(606) 292-5316

Date: January 31, 2000

Dear

This letter is in response to your correspondence to Congressman Rob Portman's office dated December 13, 1999. We apologize for the difficulties you are experiencing with the Internal Revenue Service which caused you to contact the Congressional office.

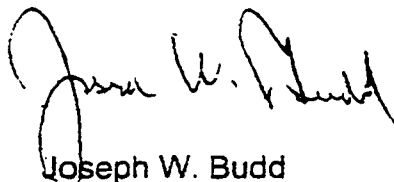
Your letter concerns the statutory authority for levy on wages, salary and other income. Your interpretation of Internal Revenue Code Section 6331 is incorrect. The first sentence of the statute states, "If any person liable to pay any tax (emphasis added) neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax by levy..." This applies to any person for any tax, not only taxes on alcohol tobacco or firearms. The second sentence of the statute tells how the levy is to be done when that person is an employee of the United States, but it does not limit levy to only employees of the United States.

The other references you cite apply to the collection of civil judgments and consumer debt. The Internal Revenue Restructuring and Reform Act of 1998 gives you specific guidance for appeal of proposed levy action by Internal Revenue Service. There is no record of your exercise of such appeal with respect to this levy. Information sent with the Notice of Levy should have provided you with contact information for Internal Revenue Service Collection Division. If you made an appeal and that appeal was not honored, or if you failed to receive information concerning your rights as a taxpayer, please let us know.

You requested form 23C for tax years 1994, 1995 and 1996. Enclosed is the Summary Record of Assessment, RACS 006 Reports, which is the automated equivalent of form 23C. The RACS report does not identify specific taxpayers by name. The Summary Record of Assessments are the aggregate of the taxes, interest and penalties assessed on a given business day and also reflects the assessment officer's signature. Enclosed are transcripts of your accounts for 1994, 1995 and 1996 which reflect the date of the assessments to which the Summary Record of Assessment relates.

If the Taxpayer Advocate office may be of further assistance in this matter, you may call me or a member of my staff an the telephone number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph W. Budd". The signature is written in a cursive style with a large initial "J".

Joseph W. Budd  
Taxpayer Advocate  
Cincinnati Service Center  
Employee Number 17-17018

Enclosure  
Assessment Documents (Copies)

CC: Congressman Rob Portman

## Balance Due Account Procedures

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

#### 5311 (11-15-85) Assessment Authority

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

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

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

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

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

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

marize and record the official action of the assessment officer.

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

#### 5313.1 (11-15-85) General

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

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

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

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

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

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

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

26 USC 6321

United States Statutes at Large											
	1954 Code	1939 Code	Date Enacted	PL.#	Cong.	Sess.	Vol.	Part	Page	Chap.	Act Section
1	6321	3670		n/a	43	1	18	1/3	612	2	R.S. 3186
2			*1928, May 29	No. 562	70	1	45	1/2	875	852	613

*Absolute Law — Curiamo Report No. 86*

-HEAD-

Subchapter C - Lien for Taxes

-MISC1-

Sec.

6321. Lien for taxes.

6322. Period of lien.

6323. Validity and priority against certain persons.

6324. Special liens for estate and gift taxes.

6324A. Special lien for estate tax deferred under section 6166.

6324B. Special lien for additional estate tax attributable to farm, etc., valuation.

6325. Release of lien or discharge of property.

6326. Administrative appeal of liens.

6327. Cross references.

AMENDMENTS

1988 - Pub. L. 100-647, title VI, Sec. 6238(c), Nov. 10, 1988, 102 Stat. 3743, added item 6326 and redesignated former item 6326 as 6327.

1981 - Pub. L. 97-34, title IV, Sec. 422(e)(6)(D), Aug. 13, 1981, 95 Stat. 316, struck out "'or 6166A'" after "'section 6166'" in item 6324A.

1976 - Pub. L. 94-455, title XX, Sec. 2003(d)(2), 2004(f)(1), Oct. 4, 1976, 90 Stat. 1862, 1871, added items 6324A and 6324B.

1966 - Pub. L. 89-719, title I, Sec. 101(b)(1), 103(b), Nov. 2, 1966, 80 Stat. 1131, 1135, substituted "'Validity and priority against certain persons'" for "'Validity against mortgagees, pledgees, purchasers, and judgment creditors'" in item 6323, and struck out "'partial'" before "'discharge'" in item 6325.

-SECREP-

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2035, 6335 of this title.

-CITE-

→ 26 USC Sec. 6321

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

→ CHAPTER 64 - COLLECTION

Subchapter C - Lien for Taxes

-HEAD-

Sec. 6321. Lien for taxes

-STATUTE-

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 779.) ←

-MISC1-



SHORT TITLE

Pub. L. 89-719, Sec. 1(a), Nov. 2, 1966, 80 Stat. 1125, provided that: 'This Act (enacting sections 3505, 7425, 7426, and 7810 of this title, amending sections 545, 6322 to 6325, 6331, 6332, 6334, 6335, 6337 to 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, sections 1346, 1402, and 2410 of Title 28, Judiciary and Judicial Procedure, and section 270a of Title 40, Public Buildings, Property, and Works, redesignating section 7425 as 7427 of this title, and enacting provisions set out as notes under sections 6323 and 7424 of this title, and under section 1346 of Title 28) may be cited as the 'Federal Tax Lien Act of 1966'.'

-CROSS-

CROSS REFERENCES

+  
+ →

Action to enforce lien or to subject property to payment of tax, see section 7403 of this title.

Additions to tax and additional amounts generally, see section 6651 et seq. of this title.

Assessable penalties, see section 6671 et seq. of this title.

Interest on nonpayment of tax, see section 6601 of this title.

Notice and demand for tax, see section 6303 of this title.

Payment on notice and demand, see section 6155 of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6322, 6323, 6325 of this title; title 29 section 1368; title 30 section 934.

-CITE-

26 USC Sec. 6322

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 64 - COLLECTION  
Subchapter C - Lien for Taxes

-HEAD-

Sec. 6322. Period of lien

-STATUTE-

Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Nov. 2, 1966, Pub. L. 89-719, title I, Sec. 113(a), 80 Stat. 1146.)

-MISC1-

AMENDMENTS

1966 - Pub. L. 89-719 inserted '(or a judgment against the taxpayer arising out of such liability)'

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain

that felt the action to collect their delinquent accounts was inappropriate within the context of the Internal Revenue Code and the policies of the Internal Revenue Service.

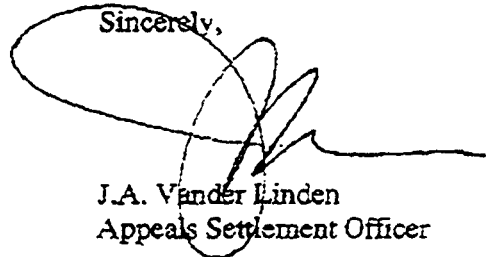
Your appeal does not specify any improprieties with the collection action that has been proposed on your delinquent accounts. You may contact us to advise us if you wish to amend your Request for a Collection Due Process Hearing to conform to the provisions of IRC § 6330 (c)(2).

You indicate you do not believe the assessments made against you are valid. We will be happy to provide you with certified transcripts of your accounts. The courts have consistently accepted certified transcripts of accounts as proof that the assessments are valid. Please refer to United States of America v. Richard A. Sherlock, et al., US-CT-APP-5, [98-1 USTC ¶50,139], (Dec. 18, 1997)

"Sherlock next contends that jurisdiction was lacking because the government failed to produce Form 23C in proof of his tax assessment. There is, however, no connection between Form 23C and the district court's jurisdiction. With regard to proof of the tax assessment itself, this court has specifically held that Form 4340 is sufficient to establish a presumptively valid tax assessment. *United States v. McCallum* [92-2 USTC ¶50,448], 970 F.2d 66, 71 (5th Cir. 1992). In this case, the government produced Form 4340, so there is no merit to this argument either."

Thank you for your cooperation. Please call the person whose name is shown above if you have any questions about this decision.

Sincerely,



J.A. Vender Linden  
Appeals Settlement Officer

...

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

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

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

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

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

3(17)(63)(14) Account Series 6000 Assessments and Settlements

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

3(17)(63)(14).1 Account 6110 Tax Assessments

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

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

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

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

United States



of America

Department of the Treasury  
Internal Revenue Service

Date: JUN 28 2000

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: transcript of the taxpayer named therein in respect to the taxes specified, is a true and complete transcript for the period stated, of all assessments, penalties, interest, abatements, credits, refunds, and advance or unidentified payments relating thereto as disclosed by the records of this office as of the date of this certification consisting of 3 pages.

under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed on the day and year first above written.

By direction of the Secretary of the Treasury:

*for* *Pamela J. Walker*  
Estelle R. Tonley, Director  
Internal Revenue Service Center  
Midstates Region - Austin, TX

-----  
 CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS  
 -----

EIN/SSN: [REDACTED]

U.S. INDIVIDUAL INCOME TAX RETURN  
 FORM: 1040 PERIOD ENDING: DEC. 1995

DATE	EXPLANATION OF TRANSACTIONS	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006 )
	ADJUSTED GROSS INCOME			
	51,953.43			
	TAXABLE INCOME			
	35,403.00			
07/29/1996	RETURN FILED AND TAX ASSESSED 28221-209-20203-6	.00		08/19/1996
07/29/1996	WITHHOLDING CREDIT		1,144.34	
04/15/1996	EXTENSION OF TIME TO FILE TO 08/15/1996			
08/19/1996	REFUND		(1,144.34)	
	ADDITIONAL TAX ASSESSED	.00		07/21/1997
	28254-578-18147-7			
07/19/1999	ASSESSMENT STATUTE EXTENDED TO 12/26/1999			
	IRC 6662(E)-ACCURACY PENALTY	1,062.80		08/16/1999
	29247-608-00066-9 199931			
	AUDIT DEFICIENCY PER DEFAULT OF 90 DAY LETTER	5,314.00		08/16/1999
	29247-608-00066-9 199931			
	INTEREST ASSESSED	1,993.71		08/16/1999
	199931			
04/18/2000	INTENT TO LEVY COLL. DUE PROCESS LEVY NOTICE ISSUED			

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CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS  
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[REDACTED] EIN/SSN: [REDACTED]

U.S. INDIVIDUAL INCOME TAX RETURN  
FORM: 1040 PERIOD ENDING: DEC. 1995

DATE	EXPLANATION OF TRANSACTIONS	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSM DATE (2 RAC 00
04/21/2000	INTENT TO LEVY COLL. DUE PROCESS RETURN RECEIPT SIGNED			
08/16/1999	NOTICE OF BALANCE DUE			
09/20/1999	THIRD DELINQUENCY NOTICE			
10/25/1999	FOURTH DELINQUENCY NOTICE			
	ASSESSED ITEMS BALANCE DUE		8,370.51	

-----  
CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS  
-----

EIN/SSN: [REDACTED]

U.S. INDIVIDUAL INCOME TAX RETURN

FORM: 1040

PERIOD ENDING: DEC. 1995  
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I certify that the foregoing transcript of the taxpayer named above in respect to the taxes specified is a true and complete transcript for the period stated, and all assessments, abatements, credits, refunds, and advanced or unidentified payments, and the assessed balance relating thereto as disclosed by the records of this office as of the date of this certification, are shown therein. I further certify that the other specified matters set forth in this transcript appear in the official record of the Internal Revenue Service.  
-----

Signature of Certifying Officer: Mary R. Stelly

Print Name: Mary R. Stelly

Title: Manager Special Services Unit

Local Delegation Order: AUSPC-2

Location: Internal Revenue Service  
Midstates Region

Date: 06/27/2000  
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### Certificate of Assessments and Payments

Name of Taxpayer	Address (Number, street, city, and state)	EIN or SSN
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Date <i>(a)</i>	Explanation of Transactions <i>(b)</i>	Assessment (Abatement) <i>(c)</i>	Credit (Credit Reversal) <i>(d)</i>	Balance <i>(e)</i>	DLN or Account Number <i>(f)</i>	23C Date <i>(g)</i>	Period Ending <i>(h)</i>
06-19-87	Substitute for Return	.00		.00	1721017100828-7	07-20-87	8512

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I certify that the foregoing transcript of the taxpayer named above in respect to the taxes specified is a true and complete transcript for the period stated, and all assessments, penalties, interests, abatements, credits, refunds, and advance or unidentified payment relating thereto as disclosed by the records of this office as of the date of this certification are shown therein.

Signature of Director <i>(required for certification)</i> 	Location Cincinnati Service Center, Covington, Kentucky	Date 10-06-87 B.A.B.
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amounts, additions to the taxes, and assessable penalties. The authority of the district director and the director of the regional service center to make assessments includes the following:

(1) *Taxes shown on return.* The district director or the director of the regional service center shall assess all taxes determined by the taxpayer or by the district director or the director of the regional service center and disclosed on a return or list.

(2) *Unpaid taxes payable by stamp.* (i) If without the use of the proper stamp:

(a) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof, or

(b) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs;

The district director, upon such information as he can obtain, must estimate the amount of the tax which has not been paid and the district director or the director of the regional service center must make assessment therefor upon the person the district director determines to be liable for the tax. However, the district director or the director of the regional service center may not assess any tax which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner provided by law or regulations.

(ii) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is not paid upon presentment, then the district director or the director of the regional service center shall assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the check or money order was received by the district director.

(3) *Erroneous income tax prepayment credits.* If the amount of income tax withheld or the amount of estimated income tax paid is overstated by a taxpayer on a return or on a claim for refund, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund shall be assessed by the district director or the director of the regional service center in the same manner as in the case of a mathematical error on the return. See section 6213

(b)(1), relating to exceptions to restrictions on assessment.

(b) *Estimated income tax.* Neither the district director nor the director of the regional service center shall assess any amount of estimated income tax required to be paid under section 6153 or 6154 which is unpaid.

(c) *Compensation of child.* Any income tax assessed against a child, to the extent of the amount attributable to income included in the gross income of the child solely by reason of section 73(a) or the corresponding provision of prior law, if not paid by the child, shall, for the purposes of the income tax imposed by chapter 1 of the Code (or the corresponding provisions of prior law), be considered as having also been properly assessed against the parent. In any case in which the earnings of the child are included in the gross income of the child solely by reason of section 73(a) or the corresponding provision of prior law, the parent's liability is an amount equal to the amount by which the tax assessed against the child (and not paid by him) has been increased by reason of the inclusion of such earnings in the gross income of the child. Thus, if for the calendar year 1954 the child has income of \$1,000 from investments and of \$3,000 for services rendered, and the latter amount is includible in the gross income of the child under section 73(a) and the child has no wife or dependents, the tax liability determined under section 3 is \$625. If the child had only the investment income of \$1,000, his tax liability would be \$62. If the tax of \$625 is assessed against the child, the difference between \$625 and \$62, or \$563, is the amount of such tax which is considered to have been properly assessed against the parent, if not paid by the child.

#### § 301.6203-1 Method of assessment.

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through



supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

**§ 301.6204-1 Supplemental assessments.**

If any assessment is incomplete or incorrect in any material respect, the district director or the director of the regional service center, subject to the restrictions with respect to the assessment of deficiencies in income, estate, gift, chapter 41, 42, 43, and 44 taxes, and subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

[T.D. 7838, 47 FR 44249, Oct. 7, 1982]

**§ 301.6205-1 Special rules applicable to certain employment taxes.**

For regulations under section 6205, see § 31.6205-1 of this chapter (Employment Tax Regulations).

**DEFICIENCY PROCEDURES**

**§ 301.6211-1 Deficiency defined.**

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax, (income, estate, gift, or excise tax as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected with-

out assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by chapter 41, 42, 43, or 44. Any amount shown as additional tax on an "amended return," so-called (other than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.

(b) For purposes of the definition, the income tax imposed by subtitle A and the income tax shown on the return shall both be determined without regard to the credit provided in section 31 for income tax withheld at the source and without regard to so much of the credit provided in section 32 for income taxes withheld at the source as exceeds 2 percent of the interest on tax-free covenant bonds described in section 1451. Payments on account of estimated income tax, like other payments of tax by the taxpayer, shall likewise be disregarded in the determination of a deficiency. Any credit resulting from the collection of amounts assessed under section 6851 or 6852 as the result of a termination assessment shall not be taken into account in determining a deficiency.

(c) The computation by the Internal Revenue Service, pursuant to section 6014, of the income tax imposed by subtitle A shall be considered as having been made by the taxpayer and the tax so computed shall be considered as the tax shown by the taxpayer upon his return.

certified as provided in paragraph (d) of § 601.504.

[32 FR 15990, Nov. 22, 1967, as amended at 34 FR 6432, Apr. 12, 1969; 45 FR 7259, Feb. 1, 1980]

**§ 601.525 Certification of copies of documents.**

The provisions of paragraph (e) of § 601.504 with respect to certification of copies are applicable to a power of attorney or a tax information authorization required to be filed under § 601.522 or § 601.523.

**§ 601.526 Revocation of powers of attorney and tax information authorizations.**

The revocation of the authority of a representative covered by a power of attorney or tax information authorization filed in an office of the Bureau of Alcohol, Tobacco, and Firearms shall in no case be effective prior to the giving of written notice to the proper official that the authority of such representative has been revoked.

[34 FR 6432, Apr. 12, 1969, as amended at 45 FR 7259, Feb. 1, 1980]

**§ 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.**

The provisions of paragraph (b) of § 601.505, and of §§ 601.506 through 601.508 of this subpart, as applicable, shall be followed in offices of the Bureau of Alcohol, Tobacco, and Firearms.

[34 FR 6433, Apr. 12, 1969, as amended at 34 FR 14604, Sept. 19, 1969; 45 FR 7259, Feb. 1, 1980]

**Subpart F—Rules, Regulations, and Forms**

**§ 601.601 Rules and regulations.**

(a) *Formulation.* (1) Internal revenue rules take various forms. The most important rules are issued as regulations and Treasury decisions prescribed by the Commissioner and approved by the Secretary or his delegate. Other rules may be issued over the signature of the Commissioner or the signature of any other official to whom authority has been delegated. Regulations and Treasury decisions are prepared in the Office of the Chief Counsel. After approval by the Commissioner, regulations and

Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval.

(2) Where required by 5 U.S.C. 553 and in such other instances as may be desirable, the Commissioner publishes in the FEDERAL REGISTER general notice of proposed rules (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law). This notice includes:

(i) A statement of the time, place, and nature of public rulemaking proceedings;

(ii) Reference to the authority under which the rule is proposed.

(iii) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(3)(i) This subparagraph shall apply where the rules of this subparagraph are incorporated by reference in a notice of hearing with respect to a notice of proposed rule making.

(ii) A person wishing to make oral comments at a public hearing to which this subparagraph applies shall file his written comments within the time prescribed by the notice of proposed rule making (including any extensions thereof) and submit the outline referred to in subdivision (iii) of this subparagraph within the time prescribed by the notice of hearing. In lieu of the reading of a prepared statement at the hearing, such person's oral comments shall ordinarily be limited to a discussion of matters relating to such written comments and to questions and answers in connection therewith. However, the oral comments shall not be merely a restatement of matters the person has submitted in writing. Persons making oral comments should be prepared to answer questions not only on the topics listed in his outline but also in connection with the matters relating to his written comments. Except as provided in paragraph (b) of this section, in order to be assured of the availability of copies of such written comments or outlines on or before the beginning of such hearing, any person who desires such copies should make such a request within the time prescribed in the notice of hearing and shall agree to pay reasonable costs for

coping. Persons who make such a request after the time prescribed in the notice of hearing will be furnished copies as soon as they are available, but it may not be possible to furnish the copies on or before the beginning of the hearing. Except as provided in the preceding sentences, copies of written comments regarding the rules proposed shall not be made available at the hearing.

(iii) A person who wishes to be assured of being heard shall submit, within the time prescribed in the notice of hearing, an outline of the topics he or she wishes to discuss, and the time he or she wishes to devote to each topic. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. A period of 10 minutes will be the time allotted to each person for making his or her oral comments.

(iv) At the conclusion of the presentations of comments of persons listed in the agenda, to the extent time permits, other persons may be permitted to present oral comments provided they have notified, either the Commissioner of Internal Revenue (Attention: CC:LR:T) before the hearing, or the representative of the Internal Revenue Service stationed at the entrance to the hearing room at or before commencement of the hearing, of their desire to be heard.

(v) In the case of unusual circumstances or for good cause shown, the application of rules contained in this subparagraph, including the 10-minute rule in subdivision (iii), above, may be waived.

(vi) To the extent resources permit, the public hearings to which this subparagraph applies may be transcribed.

(b) *Comments on proposed rules*—(1) *In general.* Interested persons are privileged to submit any data, views, or arguments in response to a notice of proposed rule making published pursuant to 5 U.S.C. 553. Further, procedures are provided in paragraph (d)(9) of §601.702 for members of the public to inspect and to obtain copies of written comments submitted in response to such notices. Designations of material as confidential or not to be disclosed, contained in such comments, will not be

accepted. Thus, a person submitting written comments in response to a notice of proposed rule making should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to a notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of paragraph (d)(9) of §601.702. The name of any person requesting a public hearing and hearing outlines described in paragraph (a)(3)(iii) of this section are not exempt from disclosure.

(2) *Effective date.* This paragraph (b) applies only to comments submitted in response to notices of proposed rule making of the Internal Revenue Service published in the FEDERAL REGISTER after June 5, 1974.

(c) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule should identify the section or sections of law involved; and a petition for the amendment or repeal of a rule should set forth the section or sections of the regulations involved. The petition should also set forth the reasons for the requested action. Such petitions will be given careful consideration and the petitioner will be advised of the action taken thereon. Petitions should be addressed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, DC 20224. However, in the case of petitions to amend the regulations pursuant to subsection (c)(4)(A)(viii) or (5)(A)(i) of section 23 or former section 44C, follow the procedure outlined in paragraph (a) of §1.23-6.

(d) *Publication of rules and regulations*—(1) *General.* All Internal Revenue Regulations and Treasury decisions are published in the FEDERAL REGISTER and in the Code of Federal Regulations. See paragraph (a) of §601.702. The Treasury decisions are also published in the weekly Internal Revenue Bulletin and the semiannual Cumulative Bulletin. The Internal Revenue Bulletin is the authoritative instrument of

the Commissioner for the announcement of official rulings, decisions, opinions, and procedures, and for the publication of Treasury decisions, Executive orders, tax conventions, legislation, court decisions, and other items pertaining to internal revenue matters. It is the policy of the Internal Revenue Service to publish in the Bulletin all substantive and procedural rulings of importance or general interest, the publication of which is considered necessary to promote a uniform application of the laws administered by the Service. Procedures set forth in Revenue Procedures published in the Bulletin which are of general applicability and which have continuing force and effect are incorporated as amendments to the Statement of Procedural Rules. It is also the policy to publish in the Bulletin all rulings which revoke, modify, amend, or affect any published ruling. Rules relating solely to matters of internal practices and procedures are not published; however, statements of internal practices and procedures affecting rights or duties of taxpayers, or industry regulation, which appear in internal management documents, are published in the Bulletin. No unpublished ruling or decision will be relied on, used, or cited by any officer or employee of the Internal Revenue Service as a precedent in the disposition of other cases.

(2) *Objectives and standards for publication of Revenue Rulings and Revenue Procedures in the Internal Revenue Bulletin*—(i) (a) A *Revenue Ruling* is an official interpretation by the Service that has been published in the Internal Revenue Bulletin. Revenue Rulings are issued only by the National Office and are published for the information and guidance of taxpayers, Internal Revenue Service officials, and others concerned.

(b) A *Revenue Procedure* is a statement of procedure that affects the rights or duties of taxpayers or other members of the public under the Code and related statutes or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge.

(ii) (a) The Internal Revenue Bulletin is the authoritative instrument of the

Commissioner of Internal Revenue for the publication of official rulings and procedures of the Internal Revenue Service, including all rulings and statements of procedure which supersede, revoke, modify, amend, or affect any previously published ruling or procedure. The Service also announces in the Bulletin the Commissioner's acquiescences and nonacquiescences in decisions of the U.S. Tax Court (other than decisions in memorandum opinions), and publishes Treasury decisions, Executive orders, tax conventions, legislation, court decisions, and other items considered to be of general interest. The Assistant Commissioner (Technical) administers the Bulletin program.

(b) The Bulletin is published weekly. In order to provide a permanent reference source, the contents of the Bulletin are consolidated semiannually into an indexed Cumulative Bulletin. The Bulletin Index-Digest System provides a research and reference guide to matters appearing in the Cumulative Bulletins. These materials are sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(iii) The purpose of publishing revenue rulings and revenue procedures in the Internal Revenue Bulletin is to promote correct and uniform application of the tax laws by Internal Revenue Service employees and to assist taxpayers in attaining maximum voluntary compliance by informing Service personnel and the public of National Office interpretations of the internal revenue laws, related statutes, treaties, regulations, and statements of Service procedures affecting the rights and duties of taxpayers. Therefore, issues and answers involving substantive tax law under the jurisdiction of the Internal Revenue Service will be published in the Internal Revenue Bulletin, except those involving:

(a) Issues answered by statute, treaty, or regulations;

(b) Issues answered by rulings, opinions, or court decisions previously published in the Bulletin;

(c) Issues that are of insufficient importance or interest to warrant publication;

FREEDOM OF INFORMATION ACT REQUEST

TO:  
Disclosure Officer  
Internal Revenue Service

FROM:  
Name Name  
Ohio xxxxx  
Account #: xxx-xx-xxxx

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: 199, 199, 199
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 Name, Requester

FREEDOM OF INFORMATION ACT REQUEST

TO:  
Disclosure Officer  
Internal Revenue Service

FROM:  
Name Name

Account #: xxx-xx-xxxx

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: 1991, 1992, 1993
5. Please send me a copy of the AMDISA File, which pertains to me.

Dated:

Respectfully,

---

Name Name, Requester

FREEDOM OF INFORMATION ACT REQUEST

TO:

Department of Treasury  
Internal Revenue Service  
Foia Disclosure Officer

FROM:

Name Name

Account# xxx-xx-xxxx

Dear Sir,

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).
2. If some of this is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: IRS employee \*\*\*\*\*
5. Please send a copy of the delegation of authority for IRS Employee to inspect any records, hold hearings, or audit \*\*\*\*\* pursuant to IRS \*\*\*\*\* which pertains to the above referenced SS# and person.

DATED:

Respectfully,

Name Name, Requester



FREEDOM OF INFORMATION ACT REQUEST

TO:

Department of Treasury  
Internal Revenue Service  
Foia Disclosure Officer

FROM:

Name Name

Account# xxx-xx-xxxx

Dear Sir;

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).
2. If some of this is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: 1997.
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 Name, Requester

FREEDOM OF INFORMATION ACT REQUEST

TO:

Department of Treasury  
Internal Revenue Service  
Foia Disclosure Officer

FROM:

Name Name

Account# xxx-xx-xxxx

Dear Sir;

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).
2. If some of this is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: 1997
5. Please send a copy front and back of the document identified by Document Locator Number (DLN) (14 digit number) for the year 1997 which pertains to the above referenced SS# and person.

DATED:

Respectfully,

Name Name, Requester

Internal Revenue Service

Department of the Treasury

District  
Director

320 Federal Place Room 409  
Greensboro, NC 27401

Person to Contact:

Ms. E. Williamson, #689357

Telephone Number:

(336) 378-2274

Refer Reply to:

56-1999-535

Date: April 30, 1999

Dear Mr.

This is in reply to your Freedom of Information Act (FOIA) request dated December 18, 1998, and received in this office on December 21, 1998.

You requested a copy of all documents maintained in the system of records identified as Controlled Accounts (open and closed), Criminal Investigation Division (CID), TC 910, TC 914, TC 916, and TC 918, - Treasury/IRS 46.004 and all documents maintained in the Centralized Evaluation and Processing of Information Items (CEPIIs), CID- Treasury/IRS 46.009 pertaining to you for tax years 1994 through 1998.

We have located 4,111 pages of records that are responsive to your request. Of these pages, 3 are being partially denied and 1,521 are being totally denied. The exemptions being asserted under the FOIA, (b)(3), (b)(5), b)(7)(A), b)(7)(C), and (b)(7)(E) are explained below.

Subsection (b)(3) provides exemption for documents specifically exempted by other statute. In this case, Internal Revenue Code (IRC) Sections 6103(a) and 6103(e)(7) are applicable. IRC Section 6103(a) provides that records shall not be disclosed if such records contain information relating to a third party. Section 6103(e)(7) warrants nondisclosure of documents if the release of such documents would seriously impair Federal tax administration.

Subsection (b)(5) is being asserted with regard to those of the documents deleted or withheld which contain the advisory opinions, recommendations analyses, deliberations, and/or conclusions of Service employees that are part of the Government decision-making process.

Subsection (b)(7)(A) is being asserted with regard to those of the documents withheld, the disclosure of which could interfere with ongoing enforcement proceedings, in the opinion of the Internal Revenue Service, by disclosing potential evidence, the direction, scope, or limits of the proceeding, or the Service's strategy or approach to the proceeding. In addition, disclosure of these documents would provide you with earlier and greater access than you are entitled to at this point in the proceeding.

Subsection (b)(7)(C) is asserted with regard to information pertaining to third-party taxpayers on the basis that any invasion of privacy of those taxpayers resulting from disclosure of information concerning them would be unwarranted.

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

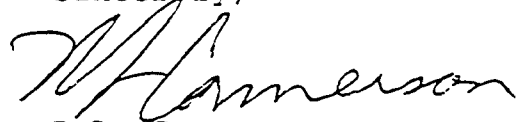
We are enclosing 2,931 pages of responsive records. The first 100 pages have been processed at no charge. The duplication fee for the remaining 2,831 pages is \$424.65 (2831 x .15). Your advance payment of \$480.00 is being applied towards this fee and an overpayment of \$55.35 exist.

Please be advised that we are currently processing additional FOIA requests received from you that will involve search fees of \$17.00 per hour. Please advise our office within the next 30 days if you wish to have this overpayment refunded to you or applied towards any future FOIA processing fees.

Notice 393 which explains your appeal rights under the FOIA is also enclosed.

If you have any questions, you may contact me or a member of my staff on the telephone number shown on the first page of this letter.

Sincerely,

A handwritten signature in cursive script that reads "R.L. Commerson". The signature is written in dark ink and is positioned above the typed name.

R.L. Commerson  
Disclosure Officer

Enclosures

- 601.505 Requirements for changing representation.
- 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.
- 601.507 Evidence required to substantiate facts alleged in conferences.
- 601.508 Contest between representatives of a taxpayer.
- 601.509 Power of attorney or tax information authorization not required in cases docketed in the Tax Court of the United States.

**REQUIREMENTS FOR ALCOHOL, TOBACCO, AND FIREARMS ACTIVITIES**

- 601.521 Requirements for conference and representation in conference.
- 601.522 Power of attorney.
- 601.523 Tax information authorization.
- 601.524 Execution and filing powers of attorney and tax information authorizations.
- 601.525 Certification of copies of documents.
- 601.526 Revocation of powers of attorney and tax information authorizations.
- 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

**Subpart F—Rules, Regulations, and Forms**

- 601.601 Rules and regulations.
- 601.602 Tax forms and instructions.

**Subpart G—Records (Note)**

- 601.701 Publicity of information.
- 601.702 Publication and public inspection.

**Subpart H—Tax Counseling for the Elderly**

- 601.801 Purpose and statutory authority.
- 601.802 Cooperative agreements.
- 601.803 Program operations and requirements.
- 601.804 Reimbursements.
- 601.805 Miscellaneous administrative provisions.
- 601.806 Solicitation of applications.

**Subpart J—OMB Control Numbers Under the Paperwork Reduction Act**

- 601.0000 OMB control numbers for the statement of procedural rules.

**Authority:** 5 U.S.C. 301 and 552, unless otherwise noted.

**Source:** 32 FR 15990, Nov. 22, 1967, unless otherwise noted.

**NOMENCLATURE CHANGE NOTE:** In Part 601 the terms "Assistant Regional Commissioner (Alcohol, Tobacco and Firearms)" or "Regional Director" shall mean the "special agent in charge" or the "regional regulatory

administrator in the Bureau of Alcohol, Tobacco and Firearms". For further explanation, see 41 FR 44038, Oct. 6, 1976.

**Subpart A—General Procedural Rules**

**§ 601.101 Introduction.**

(a) **General.** The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director, Foreign Operations District, administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations, provided the books and records of those taxpayers are located outside the United States. For purposes of these procedural rules any reference to a district director or a district office includes the Director, Foreign Operations District, or the District Office, Foreign Operations District, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) **Scope.** This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a de-

scriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment, collection, and enforcement of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment, collection, and enforcement functions are separately described in Subpart B of this part. A description of the rule making functions of the Department of the Treasury with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules with respect to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Title 26 of the Code of Federal Regulations. The regulations administered by the Bureau of Alcohol, Tobacco and Firearms are contained in Title 27 of the Code of Federal Regulations. See § 601.301.

(c) **Application to Bureau of Alcohol, Tobacco and Firearms.** This part sets forth most of the procedural rules for the Bureau of Alcohol, Tobacco and Firearms. However, some of its procedural rules have been transferred to Part 71 of Title 27 of the Code of Federal Regulations (a portion of the Code of Federal Regulations exclusively devoted to alcohol, tobacco, firearms, and explosives matters). As used in this part, with regard to the administration and enforcement of the laws

applicable to distilled spirits, wines, beer, cigars, cigarettes, cigarette papers and tubes, firearms, and explosives, the terms "assistant regional commissioner", "Commissioner", and "Chief Counsel" shall be construed as meaning respectively "regional regulatory administrator", "Director", and "Chief Counsel", the Bureau of Alcohol, Tobacco and Firearms. The term "internal revenue region" or "region" when used in connection with documents filed with, or matters handled by, a regional regulatory administrator, shall mean an Alcohol, Tobacco and Firearms Region. The seven ATF regions are listed in Appendix A to Subpart C, 27 CFR Part 71.

(38 FR 4955, Feb. 23, 1973 and 41 FR 20880, May 21, 1976, as amended at 45 FR 7251, Feb. 1, 1980; 49 FR 36408, Sept. 18, 1984)

**§ 601.102 Classification of taxes collected by the Internal Revenue Service.**

(a) **Principal divisions.** Internal revenue taxes fall generally into the following principal divisions:

- (1) Taxes collected by assessment.
- (2) Taxes collected by means of revenue stamps.
- (b) **Assessed taxes.** Taxes collected principally by assessment fall into the following two main classes:
- (i) Taxes within the jurisdiction of the U.S. Tax Court. These include:
- (i) Income and profits taxes imposed by Chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.
- (ii) Estate taxes imposed by Chapter 3 of the 1939 Code and Chapter 11 of the 1954 Code.
- (iii) Gift tax imposed by Chapter 4 of the 1939 Code and Chapter 12 of the 1954 Code.

(iv) The tax on generation-skipping transfers imposed by Chapter 13 of the 1954 Code.

(v) Taxes imposed by Chapters 41 through 44 of the 1954 Code.

(2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by Chapter 1, 2, 3, or 4 of the 1939 Code or Subtitle A or Chapter 11 or 12 of the 1954 Code are within this class, such as:

(i) Excise taxes.

# SUBCHAPTER H—INTERNAL REVENUE PRACTICE

## PART 600—[RESERVED]

## PART 601—STATEMENT OF PROCEDURAL RULES

### Subpart A—General Procedural Rules

- Sec.
- 601.101 Introduction.
  - 601.102 Classification of taxes collected by the Internal Revenue Service.
  - 601.103 Summary of general tax procedure.
  - 601.104 Collection functions.
  - 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
  - 601.106 Appeals functions.
  - 601.107 Criminal investigation functions.
  - 601.108 Review of overpayments exceeding \$200,000.
  - 601.109 Bankruptcy and receivership cases.

### Subpart B—Rulings and Other Specific Matters

- 601.201 Rulings and determinations letters.
- 601.202 Closing agreements.
- 601.203 Offers in compromise.
- 601.204 Changes in accounting periods and in methods of accounting.
- 601.205 Tort claims.
- 601.206 Certification required to obtain reduced foreign tax rates under income tax treaties.

### Subpart C—[Reserved]

### Subpart D—Provisions Special to Certain Employment Taxes

- 601.401 Employment taxes.

### Subpart E—Conference and Practice Requirements

- 601.501 Scope of rules; definitions.
- 601.502 Recognized representative.
- 601.503 Requirements of power of attorney, signatures, fiduciaries and Commissioner's authority to substitute other requirements.
- 601.504 Requirements for filing power of attorney.
- 601.505 Revocation, change of representation and substitution or delegation of representative.
- 601.506 Notices to be given to recognized representative; direct contact with taxpayer; delivery of a check drawn on the United States Treasury to recognized representative.
- 601.507 Evidence required to substantiate

facts alleged by a recognized representative.

- 601.508 Dispute between recognized representatives of a taxpayer.
- 601.509 Power of attorney not required in cases docketed in the Tax Court of the United States.

### REQUIREMENTS FOR ALCOHOL, TOBACCO, AND FIREARMS ACTIVITIES

- 601.521 Requirements for conference and representation in conference.
- 601.522 Power of attorney.
- 601.523 Tax information authorization.
- 601.524 Execution and filing powers of attorney and tax information authorizations.
- 601.525 Certification of copies of documents.
- 601.526 Revocation of powers of attorney and tax information authorizations.
- 601.527 Other provisions applied to representation in alcohol, tobacco, and firearms activities.

### Subpart F—Rules, Regulations, and Forms

- 601.601 Rules and regulations.
- 601.602 Tax forms and instructions.

### Subpart G—Records (Note)

- 601.701 Publicity of information.
- 601.702 Publication and public inspection.

### Subpart H—Tax Counseling for the Elderly

- 601.801 Purpose and statutory authority.
- 601.802 Cooperative agreements.
- 601.803 Program operations and requirements.
- 601.804 Reimbursements.
- 601.805 Miscellaneous administrative provisions.
- 601.806 Solicitation of applications.

AUTHORITY: 5 U.S.C. 301 and 552, unless otherwise noted.

SOURCE: 32 FR 15990, Nov. 22, 1967, unless otherwise noted.

### Subpart A—General Procedural Rules

#### §601.101 Introduction.

(a) *General.* The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal

revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director, Foreign Operations District, administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations, provided the books and records of those taxpayers are located outside the United States. For purposes of these procedural rules any reference to a district director or a district office includes the Director, Foreign Operations District, or the District Office, Foreign Operations District, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment, collection, and enforcement of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment, collection, and enforcement functions are separately described in Subpart B of this part. A de-

scription of the rule making functions of the Department of the Treasury with respect to internal revenue tax matters is contained in Subpart F of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Title 26 of the Code of Federal Regulations.

[38 FR 4955, Feb. 23, 1973 and 41 FR 20880, May 21, 1976, as amended at 45 FR 7251, Feb. 1, 1980; 49 FR 36498, Sept. 18, 1984; T.D. 8685, 61 FR 58008, Nov. 12, 1996]

#### §601.102 Classification of taxes collected by the Internal Revenue Service.

(a) *Principal divisions.* Internal revenue taxes fall generally into the following principal divisions:

(1) Taxes collected by assessment.

(2) Taxes collected by means of revenue stamps.

(b) *Assessed taxes.* Taxes collected principally by assessment fall into the following two main classes:

(1) Taxes within the jurisdiction of the U.S. Tax Court. These include:

(i) Income and profits taxes imposed by Chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.

(ii) Estate taxes imposed by Chapter 3 of the 1939 Code and Chapter 11 of the 1954 Code.

(iii) Gift tax imposed by Chapter 4 of the 1939 Code and Chapter 12 of the 1954 Code.

(iv) The tax on generation-skipping transfers imposed by Chapter 13 of the 1954 Code.

(v) Taxes imposed by Chapters 41 through 44 of the 1954 Code.

(2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by Chapter 1, 2, 3, or 4 of the 1939 Code or Subtitle A or Chapter 11 or 12



→ -CITE-

27 USC TITLE 27 - INTOXICATING LIQUORS

01/05/99

-EXPCITE-

TITLE 27 - INTOXICATING LIQUORS

-HEAD-

TITLE 27 - INTOXICATING LIQUORS

-MISC1-

Chap.		Sec.
1.	General Provisions (Repealed)	1
2.	Prohibition of Intoxicating Beverages (Repealed, Omitted, or Transferred)	11
2A.	Beer, Ale, Porter, and Similar Fermented Liquor (Repealed or Omitted)	64a
3.	Industrial Alcohol (Omitted)	71
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5.	Prohibition Reorganization Act of 1930 (Repealed)	101
6.	Transportation in Interstate Commerce	121
7.	Liquor Law Repeal and Enforcement Act (Omitted)	151
8.	Federal Alcohol Administration Act	201
9.	Liquor Enforcement Act of 1936 (Repealed)	221

-CROSS-

CROSS REFERENCES

Alcohol taxes, see section 5001 et seq. of Title 26, Internal Revenue Code.

District of Columbia Alcoholic Beverage Control Act, see act Jan. 24, 1934, ch. 4, 48 Stat. 319, as amended, set out in section 25-101 et seq. of the District of Columbia Code.

National minimum drinking age, see section 158 of Title 23, Highways.

-CITE-

27 USC CHAPTER 1 - GENERAL PROVISIONS

01/05/99

-EXPCITE-

TITLE 27 - INTOXICATING LIQUORS  
CHAPTER 1 - GENERAL PROVISIONS

-HEAD-

CHAPTER 1 - GENERAL PROVISIONS

-MISC1-

EFFECT OF 21ST AMENDMENT; EXTENT OF REPEAL OF TITLE II OF NATIONAL PROHIBITION ACT

Act Oct. 28, 1919, ch. 85, 41 Stat. 305, as amended and supplemented, known as the National Prohibition Act, was included in chapters 1, 2, 3, and 4 of this title. Such provisions of that act and subsequent legislation as were dependent upon the 18th Amendment to the United States Constitution became inoperative by adoption of the 21st Amendment to the Constitution on Dec. 5, 1933, repealing the 18th Amendment.

Sections 2 to 5 of this chapter (acts Oct. 28, 1919, ch. 85, Sec.

1, 41 Stat. 307; Nov. 23, 1921, ch. 134, Sec. 3, 5, 42 Stat. 223) and sections 11 to 40, 44 to 57, 61, 62, and 64 of chapter 2 (acts Oct. 28, 1919, ch. 85, Sec. 2 to 39, 41 Stat. 308 to 319; Nov. 23, 1921, ch. 134, Sec. 2, 5, 42 Stat. 222, 223; Mar. 31, 1933, ch. 18, Sec. 1 to 3, 48 Stat. 23, 24) constituting title II of the National Prohibition Act as amended and supplemented, were repealed to the extent in force in the District of Columbia, Puerto Rico and the Virgin Islands, Hawaii, and Alaska by acts Jan. 24, 1934, ch. 4, Sec. 1, 48 Stat. 319; Mar. 2, 1934, ch. 37, Sec. 2, 3, 48 Stat. 361; Mar. 26, 1934, ch. 88, Sec. 2, 3, 48 Stat. 467; and Apr. 13, 1934, ch. 119, Sec. 1, 5, 48 Stat. 583, 584, respectively.

-CITE-

27 USC Sec. 1 to 5

01/05/99

-EXPCITE-

TITLE 27 - INTOXICATING LIQUORS  
CHAPTER 1 - GENERAL PROVISIONS

-HEAD-

Sec. 1 to 5. Repealed. Aug. 27, 1935, ch. 740, title I, Sec. 1, 49 Stat. 872

-MISCL-

Section 1, act Oct. 28, 1919, ch. 85, Sec. 1, 41 Stat. 305, set forth the short title of act as 'National Prohibition Act'.

Section 2, act Nov. 23, 1921, ch. 134, Sec. 3, 42 Stat. 223, provided that this title apply to the United States and all territory subject to its jurisdiction, including the Territory of Hawaii and the Virgin Islands.

Section 3, act Nov. 23, 1921, ch. 134, Sec. 5, 42 Stat. 223, authorized all laws relating to the manufacture and taxation of and traffic in intoxicating liquor, and all penalties for violations of such laws that were in force on Oct. 28, 1919, to continue in force, as to both beverage and nonbeverage liquor, except to the extent provisions of such laws were directly in conflict with provisions of this title.

Section 4, acts Oct. 28, 1919, ch. 85, title II, Sec. 1, 41 Stat. 307; Nov. 23, 1921, ch. 134, Sec. 1, 42 Stat. 222, defined 'liquor' or 'intoxicating liquor', 'person', 'commissioner', 'application', 'permit', 'bond', and 'regulation'.

Section 5, act Oct. 28, 1919, ch. 85, title II, Sec. 1, 41 Stat. 308, provided that any act authorized to be done by the commissioner could be performed by any assistant or agent designated by him for that purpose, and any records required to be filed with the commissioner could be filed with an assistant commissioner or any other person designated to receive such records.

-CITE-

27 USC CHAPTER 2 - PROHIBITION OF INTOXICATING BEVERAGES

01/05/99

-EXPCITE-

TITLE 27 - INTOXICATING LIQUORS  
CHAPTER 2 - PROHIBITION OF INTOXICATING BEVERAGES

This subchapter may be cited as the 'Federal Alcohol Administration Act'.

-SOURCE-

(Aug. 29, 1935, ch. 814, title I, Sec. 101, formerly Sec. 1, 49 Stat. 977; renumbered title I, Sec. 101, and amended Pub. L. 100-690, title VIII, Sec. 8001(a)(1), (2), (b)(1), Nov. 18, 1988, 102 Stat. 4517, 4521.)

-MISC1-

AMENDMENTS

1988 - Pub. L. 100-690, Sec. 8001(b)(1), amended section generally, substituting 'subchapter' for 'chapter'.

SHORT TITLE

Section 201 of title II of act Aug. 29, 1935, as added Nov. 18, 1988, Pub. L. 100-690, title VIII, Sec. 8001(a)(3), 102 Stat. 4518, provided that: 'This title (enacting subchapter II of this chapter) may be cited as the 'Alcoholic Beverage Labeling Act of 1988'.'

-TRANS-

TRANSFER OF FUNCTIONS

Federal Alcohol Administration and offices of members and Administrator thereof were abolished and their functions directed to be administered under direction and supervision of Secretary of Treasury through Bureau of Internal Revenue (now Internal Revenue Service) in Department of Treasury, by Reorg. Plan No. III of 1940, Sec. 2, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. See also, sections 8 and 9 of said plan for provisions relating to transfer of records, property, personnel, and funds. Section 2 of Reorg. Plan No. III of 1940 was repealed as executed by Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085, the first section of which enacted Title 31, Money and Finance. Department of the Treasury Order 221 of July 1, 1972, established the Bureau of Alcohol, Tobacco and Firearms and transferred to it the alcohol and functions of the Internal Revenue Service.

-CITE-

27 USC Sec. 202

01/05/99

-EXPCITE-

TITLE 27 - INTOXICATING LIQUORS  
CHAPTER 8 - FEDERAL ALCOHOL ADMINISTRATION ACT  
SUBCHAPTER I - FEDERAL ALCOHOL ADMINISTRATION

-HEAD-

Sec. 202. General provisions

-STATUTE-

(a) to (d) Omitted  
(e) Expenditures

Appropriations to carry out powers and duties of the Secretary of the Treasury under this chapter shall be available for expenditure, among other purposes, for personal services and rent in the District of Columbia and elsewhere, expenses for travel and subsistence, for law books, books of reference, magazines,

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer  
Internal Revenue Service

FROM:

Heritage Investment Trust

Ohio xxxxx  
Account #: 36-xxxxxxx

Dear 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 is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: 1990, 1991, 1992, 1993, 1994
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 (BMF): 24.046 which pertains to the above referenced SS# and person.

DATED: .....

Respectfully,

Name Name, Co-Trustee, Requester

Coname Coname, Co-Trustee

# BY ORDER OF THE SECRETARY OF THE TREASURY

TREASURY ORDER: 120-01

DATE: June 6, 1972

SUNSET REVIEW: TBD

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

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

1. The purpose of this Order is to transfer, as specified herein, the functions, powers and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service) to the Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Alcohol, Tobacco and Firearms (hereinafter referred to as the Director). The Director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).

2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary in the administration and enforcement of the following provisions of law:

- a. Chapters 51, 52, and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;
- b. Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to activities administered and enforced with respect to chapters 51, 52, and 53;
- c. The Federal Alcohol Administration Act (27 U.S.C. Chapter 8);
- d. 18 U.S.C. Chapter 44 (relating to firearms);
- e. Title VII, Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix, sections 1201-1203);
- f. 18 U.S.C. 1262-1265; 1952; 3615 (relating to liquor traffic);
- g. Act of August 9, 1939 (49 U.S.C. Chapter 11); insofar as it involves matters relating to violations of the National Firearms Act;
- h. 18 U.S.C. Chapter 40 (relating to explosives); and
- i. Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934) relating to the control of the importation of arms, ammunition and implements of war.

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

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

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

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

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

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

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

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

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

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

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

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

All delegations inconsistent with this Order are revoked.

This Order shall become effectively July 1, 1972.

Charles E. Walker

Acting Secretary of the Treasury

## SECTION 8—INTERNAL REVENUE

The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue. (Promulgated June 10, 1933.)

## EXECUTIVE ORDER No. 6639

(U. S. C., 1934 ed., Title 5, page 49)

## TRANSFER OF FUNCTIONS

1 (a). The Bureau of Industrial Alcohol and the Office of Commissioner of Industrial Alcohol are abolished, and the authority, rights, privileges, powers, and duties conferred and imposed by law upon the Commissioner of Industrial Alcohol are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury.

(b). The authority, rights, privileges, powers, and duties conferred and imposed upon the Attorney General by the act of May 27, 1930 (ch. 842, 46 Stat. 427), entitled "An Act to transfer to the Attorney General certain functions in the administration of the National Prohibition Act, to create a Bureau of Prohibition in the Department of Justice, and for other purposes", so far as they are required to, or may, be exercised and performed under existing law, are transferred to and shall be held, exercised, and performed by the Commissioner of Internal Revenue, and his assistants, agents, and inspectors, under the direction of the Secretary of the Treasury: *Provided*, That the Attorney General shall continue to exercise the power and authority (a) to remit or mitigate forfeitures under the Internal Revenue laws and to determine liability for Internal Revenue taxes and penalties, in connection with violations of the National Prohibition Act occurring prior to the repeal of the eighteenth amendment, and (b) to institute suits upon any cause of action under the National Prohibition Act or under the Internal Revenue laws involving a violation of the National Prohibition Act, arising prior to, and/or not affected by, the repeal of the eighteenth amendment, and to compromise any such cause of action before or after suit is brought: *And provided further*, That the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, shall prescribe all regulations under the provisions of the National Prohibition Act, and all laws amendatory thereof or supplementary thereto, which were not rendered inoperative by the repeal of the eighteenth amendment, relating to permits, and he shall prescribe the form of all applications, bonds, permits, records, and reports under such acts.

## TRANSFER OF OFFICIAL RECORDS AND PROPERTY

2 (a). The official records and papers on file in, and pertaining to the business of, the Bureau of Industrial Alcohol, together with the supplies, furniture, equipment, and other property of the United States in use in such Bureau, are transferred to the Bureau of Internal Revenue.

(b). The official records and papers on file in the Department of Justice pertaining to the functions transferred by this order to the Commissioner of Internal Revenue, together with the supplies, furniture, equipment, and other property of the United States in use in said Department in connection with the performance of such functions, are transferred to the Bureau of Internal Revenue.

## TRANSFER OF PERSONNEL

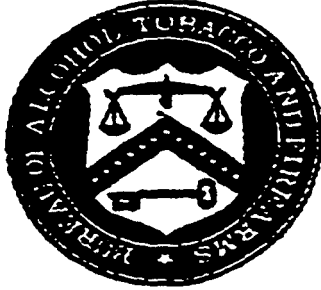
3 (a). The officers and employees employed in, or under the jurisdiction of, the Bureau of Industrial Alcohol, are transferred to the Bureau of Internal Revenue, without change in classification or compensation.

(b). The officers and employees employed in, or under the jurisdiction of, the Alcoholic Beverage Unit of the Division of Investigation, Department of Justice, except those employed in, or under the jurisdiction of, the taxes and penalties section of said Unit, are transferred to the Bureau of Internal Revenue without change in classification or compensation.

(c). Officers and employees transferred to the Bureau of Internal Revenue hereunder, who do not already possess a competitive classified civil-service status, shall not acquire such status by reason of such transfer, except upon recommendation by the Secretary of the Treasury to the Civil Service Commission, subject to such noncompetitive tests of fitness as the Commission may prescribe; and no officer or employee so transferred may be retained in the Bureau of Internal Revenue without appropriate civil-service status for a period longer than 60 days from the effective date of this order.



Department  
of the Treasury



Bureau of  
Alcohol, Tobacco  
and Firearms

ORDER

ATF O 1100.22A

5/10/24

**Subject:** DELEGATION ORDER - DELEGATION TO THE ASSOCIATE DIRECTOR  
(COMPLIANCE OPERATIONS) OF AUTHORITIES OF THE DIRECTOR IN  
27 CFR PART 250, LIQUORS FROM PUERTO RICO AND VIRGIN ISLANDS

1. **PURPOSE.** This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.
2. **CANCELLATION.** ATF O 1100.88, Delegation Order - Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 250, dated June 5, 1978, is canceled.
3. **BACKGROUND.** Under current regulations, the Director has the authority to take final action on matters relating to liquors and articles from Puerto Rico and the Virgin Islands. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.
4. **DELEGATIONS.** Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 5, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):
  - a. To prescribe all forms required by regulations including applications, reports, returns, and records, under 27 CFR 250.2.
  - b. To determine that bottles which are designed or intended for use as containers of distilled spirits sold for beverage purposes adequately protect the revenue, under 27 CFR 250.11.
  - c. To require the submission of samples of liquors and articles for laboratory analysis in order to determine the rates of tax applicable thereto, under 27 CFR 250.43 or 27 CFR 250.209.
  - d. To approve formulas described on ATF Form 5110.38, Formula for Distilled Spirits under the Federal Alcohol Administration Act, ATF Form 698 Supplemental, Formula and Process for Wine, and ATF Form 1479-A, Formula for Article Made with Specially Denatured Alcohol or Rum, and filed pursuant to 27 CFR 250.50, 27 CFR 250.51, 27 CFR 250.53, 27 CFR 250.220, 27 CFR 250.221, and 27 CFR 250.223, under 27 CFR 250.54 or 27 CFR 250.224.

Distribution: S 5000.2

OP: Regulations  
and  
Procedures  
Division

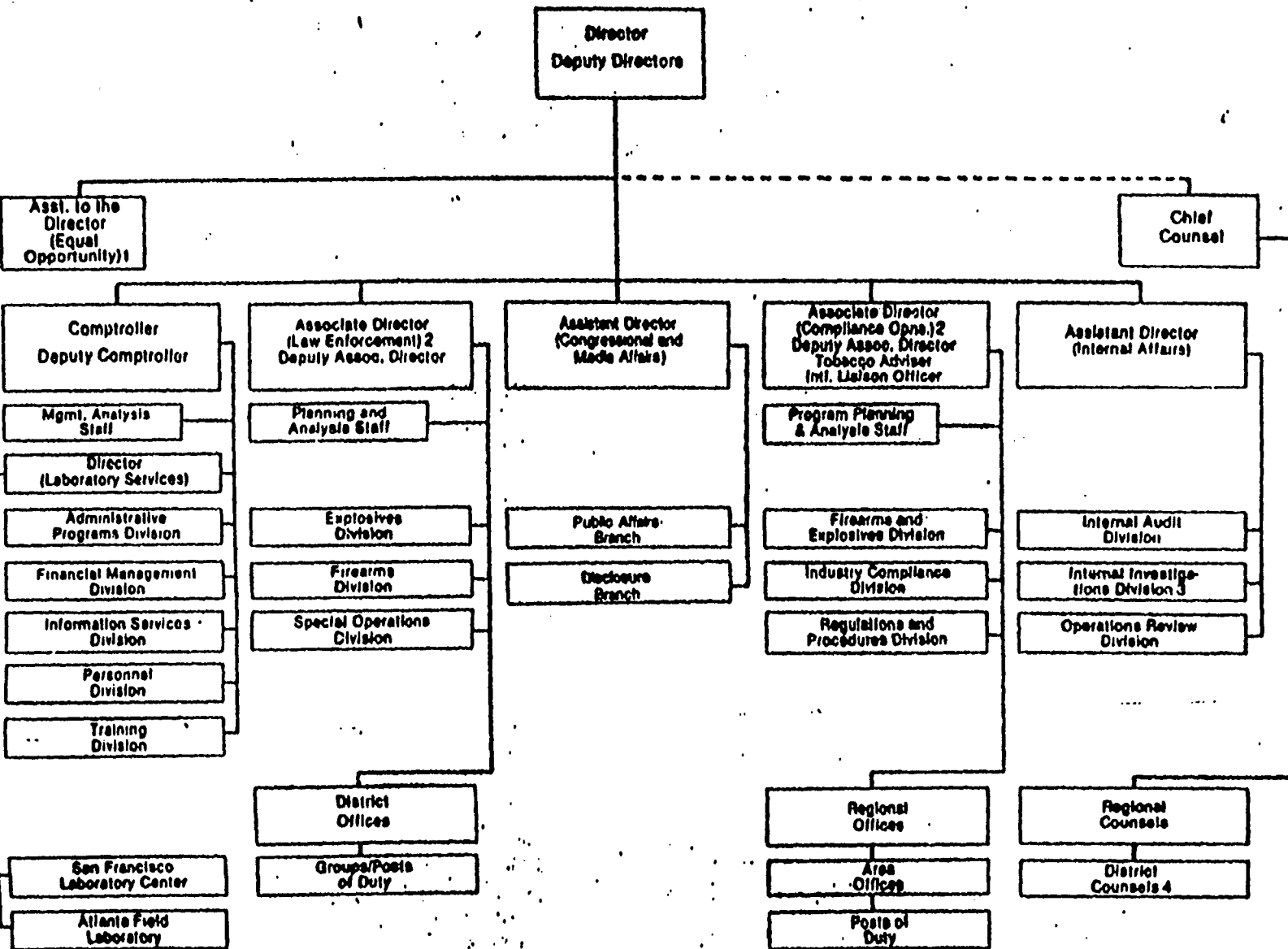
- e. To authorize labels to be affixed to containers of distilled spirits so as to partially obscure strip stamps and to approve the use of any cup, cap, or seal after receiving a sample of the closure and container, under 27 CFR 250.138 or 27 CFR 250.233.
- f. To advise regional directors (compliance) on the disposition of a product which does not conform to an approved formula, under 27 CFR 250.192.
- g. To approve, pursuant to applications submitted on ATF Form 1649/5100.31, liquor bottles which are found to meet the requirements of 27 CFR Part 5, to be distinctive, not to jeopardize the revenue, to be suitable for the intended purpose, and not to be deceptive to consumers, and to request actual bottles or authentic models thereof, under 27 CFR 250.314.
- h. To disapprove for use as a liquor bottle any bottle which is determined to be deceptive and to advise customs officers that such deceptive bottles are not approved containers for distilled spirits for consumption in the United States, under 27 CFR 250.315.
- i. To authorize an importer to receive and store used liquor bottles, under 27 CFR 250.319.
- j. To approve the use of an alternate method or procedure in lieu of a method or procedure prescribed by regulations, under 27 CFR 250.331.
- k. To withdraw authorization of an alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 250.331.

5. REDELEGATION.

- a. The authorities in paragraphs 4a and 4k above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.
- b. The authorities in paragraphs 4b through 4j above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.



**DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**



761

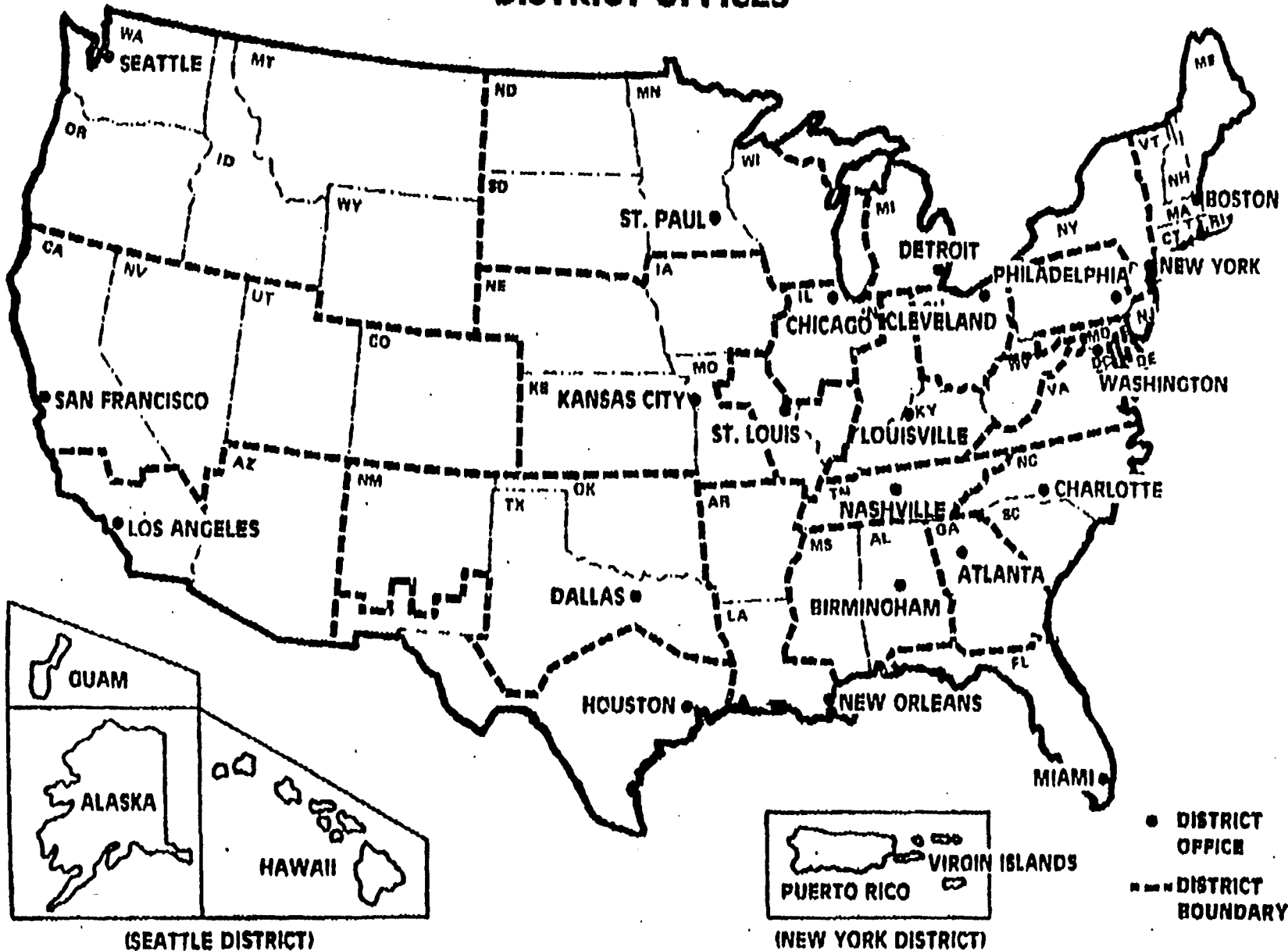
1 Field equal opportunity offices located in New York, Atlanta, Chicago, and San Francisco.

2 Associate Directors serve concurrently as Deputy Directors.

3 Field personnel stationed in Washington, DC, Chicago and San Francisco.



Department of the Treasury  
**Bureau of Alcohol, Tobacco and Firearms**  
 OFFICE OF LAW ENFORCEMENT  
 DISTRICT OFFICES



195

ATF O 1100.1D  
 Exhibit 2


## FREEDOM OF INFORMATION ACT REQUEST

Internal revenue Service  
P.O. Box 795  
Ben Franklin Station  
Washington, DC 20044

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

From:

Dear Sir/Madam,

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 31 CFR 1.5.
2. If some of this request is exempt from release, please send me those portions that can reasonably be segregated. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that this request is for commercial publication. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years 1986 through 1998.
5.  **BACKGROUND:** The National Prohibition Act, repealed in 1933, was extended to the Virgin islands and Puerto Rico in 1935, then reclassified to Title 26 in 1939, as evidenced by 48 USC 1402, a copy of which is attached hereto and incorporated herein by reference as exhibit A.
6. Please send me a copy of the documents disclosing the identity of the agency administering and/or enforcing Title III of the National Prohibition Act.

4/19/99

Respectively submitted.



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

Case No: 1999-2964 and 2996  
Contact Person: Mr. J. Cardonick  
Badge No: 50-01108  
Telephone No: 202-622-3668  
Date: MAY - 4 1999

Dear Mr.

This letter is in response to your Freedom of Information Act (FOIA) requests dated March 19 & 24, 1999, for documents pertaining to the National Prohibition Act (NPA).

We have been advised by the Bureau of Alcohol, Tobacco and Firearms (BATF) that all sections of the Internal Revenue Code (IRC) dealing with issues formerly in the NPA are the responsibility of the BATF; these issues are generally applicable only to businesses, not individual taxpayers.

Although there are no documents that would be responsive to your request, I trust this information will prove helpful to you.

Enclosed you will find Notice 393, which discusses exemptions and appeal rights.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Marusin".

Thomas Marusin

for Director, Freedom of Information  
Badge No. 50-04672

Enclosure  
Notice 393

gulfs and straits lying wholly within them. As incidents to such territorial possessions must be added a state's jurisdiction over its marginal waters when its territory abuts upon the sea, and the right of its people to navigate such rivers as form boundaries between two or more states, or such as rising within one state traverse the territories of others on their way to the sea. The legal title to such territorial property may rest either upon (1) prescription, (2) conquest, (3) occupation, (4) accretion, or (5) cession.

The non-territorial property of a state consists of such possessions as it may hold in its public capacity beyond its own limits, whether within or without the jurisdiction of other states; of such as it may hold as a private individual within the jurisdiction of another state; of its public vessels; of its private vessels, covered by the national flag; and of the goods of its subjects embarked in foreign ships.

From their very nature and situation the right to use and enjoy certain classes of state property depends exclusively upon municipal law, while for a like reason the right to use and enjoy certain other classes depends entirely upon international law. A state may limit or qualify its sovereignty and jurisdiction over its territorial property by permitting a foreign state to perform within its bounds certain acts otherwise prohibited; or by surrendering the right to exercise certain parts of its domestic jurisdiction as a protection to others. Restrictions thus imposed upon the sovereignty of a state are known as servitudes which may be either positive or negative. Taylor, *Int. Pub. Law*, 263.

**TERRITORIAL WATERS.** It is difficult to draw any precise conclusion as to the distance to which a state may lawfully extend its exclusive dominion over the sea adjoining its territories, and beyond those portions of the sea which are embraced by harbors, etc., over which it has unquestioned jurisdiction. All that can reasonably be asserted is that it extends as far as may be requisite for its safety, and for some lawful end. According to the current of modern authority, it extends as far as a cannon shot will reach—i. e. a marine league; 1 Kent 29; this limit was fixed when that was the range of a cannon; 41 Ohio St. 51; it is said that it can be extended as the range of cannon increases; Hall *Int. L.* 157. It may be extended for protection in time of war, or for revenue purposes; 139 U. S. 240; 41 Fed. Rep. 109. It has been said that the United States can attach to its coast an extent into the sea beyond the reach of cannon shot; 1 Kent 29; and congress has recognized this limit by legislation as to captures made within a marine league of the shore; *id.*

State legislation in Massachusetts which extends the territorial limit of a state three miles seaward from the shore is valid; 139 U. S. 240; i. e. it may extend its territorial limits and the boundaries of its counties to the extent of the limits of the United States. So of a California act relating to a crime committed within the same limit; 60 Fed. Rep. 42. Parliament "may extend the realm how far soever it may please;" 2 Ex. D. 153. Under the Behring Sea Arbitration, it was decided that the United States cannot protect seals in the open sea beyond the three-mile limit.

It would not be unreasonable for the United States to assume control of the waters on the coast included within distant headlands, as from Cape Ann to Cape Cod, Nantucket to Montauk Point, and from the latter to the Capes of the Delaware; 1 Kent 30.

"As between nations, the minimum limit of the territorial jurisdiction of a nation over tide waters is a marine league from the coast, and bays wholly within its territory which do not exceed two marine leagues at the mouth are within this limit." 139 U. S. 340. The Gulf of Mexico is part of the Atlantic Ocean; 131 U. S. 67; but, on the other hand, the exclusive right of

the British crown to the Bristol Channel, to the channel between Ireland and Great Britain, and between Scotland and Ireland, is uncontestable; 1 Phill. *Int. L.* § 189; and Chesapeake Bay and Delaware Bay are not a part of the high sea; 1 Whart. *Int. L.* § 29; Narragansett Bay is claimed, by usage, to be within the jurisdiction of Rhode Island; 16 Wall. 523; 9 R. I. 419; and Conception Bay in Newfoundland, though more than 20 miles wide at its mouth and nearly 30 miles long, is British territory; 2 App. Cas. 394. It is probable that the Delaware and Chesapeake bays are the property of the United States, and England claims complete jurisdiction over the bays of Chaleur, Fortune, and Conception, and some other bays of Newfoundland, as closed seas; Snow, *Int. Law* 37. The Zuyder Zee and Hudson's Bay are probably parts of the territory of the nations which surround them; while the bays of Fundy and Chaleur are public; 3 Whart. *Int. L.* 28, 304, 305a. The claim of Russia to sovereignty over the Pacific Ocean north of the 51st degree of latitude has been considered by the United States as against the rights of other nations; 1 Kent 29. See 1896 Rep. Society for Reform and Codif. of the Laws, 17th meeting; 5 Eng. *Bul. Cas.* 946; *Pilot*; *JURISDICTION*.

**TERRITORY.** A part of a country separated from the rest and subject to a particular jurisdiction.

The regional areas—of land and adjacent water—over which the United States claims and exercises dominion and control as a sovereign power. 262 U. S. 122; 3 Wheat, 336, 390.

A portion of the country subject to and belonging to the United States which is not within the boundary of any state or the District of Columbia.

**Relation to the United States.** (1) The territories are not States, within the judicial clause of the Constitution giving jurisdiction in cases between citizens of different States. (2) They are not States, within the meaning of Revised Statutes, § 709, permitting writs of error from this court in cases where the validity of a state statute is drawn in question. (3) They are States, as that word is used in treaties with foreign powers, with respect to the ownership, disposition and inheritance of property. 182 U. S. 270. The same applies to the District of Columbia (*q. v.*).

The constitution of the United States, art. 4, § 3, provides that the congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States; and nothing in this constitution shall be construed so as to prejudice any claims of the United States or of any state.

The United States has supreme sovereignty over a territory, and congress has full and complete legislative authority over its people and government; 136 U. S. 1.

Congress possesses the power to erect territorial governments within the territory of the United States: the power of congress over such territory is exclusive and universal, and their legislation is subject to no control, unless in the case of ceded territory, as far as it may be affected by stipulations in the cessions, or by the ordinance of 1787, under which any part of it has been settled; Story, *Const.* § 1322; Rawls, *Const.* 237; 1 Kent 243, 359; 1 Pet. 511. Congress has plenary legislative power over the territories of the United States, and upon the admission of a territory into the Union, may, if it so desires, effect a collective naturalization of its foreign-born inhabitants as citizens of the United States; 143 U. S. 135.

The power of the United States to acquire territory by any means known to international law would seem to be beyond question. An interesting historical reference to the subject was made by Henry Hitchcock in an address before the University of Michigan in 1889.

"It is a matter of history that when Mr. Jefferson, in 1803, purchased the Louisiana territory from France, his own belief was that he had (in his own words) 'done an act beyond the constitution,' and he was not only anxious that the acquisition of Louisiana should be sanctioned and the future annexation of Florida authorized by an amendment to the constitution, but privately submitted to his party friends the draft of such an amendment, though in his message to congress submitting the treaty for ratification he did not mention the constitutional difficulty. But the popularity of the measure secured the ratification of the treaty and all necessary legislation to enforce it without further question. Twenty-five years later, the question was presented in the supreme court in the American Insurance Company v. Canter, with reference to the validity and effect of the treaty of 1819, by which Spain had ceded Florida to the United States. Marshall answered it in these brief words: 'The constitution confers absolutely on the government of the Union the powers of making war and of making treaties; consequently that government possesses the power of acquiring territory, either by conquest or by treaty;' 1 Peters 511, 542."

In the case of the Alaska liquor laws the question was recently (1896) before the circuit court of appeals in the ninth circuit, and it was held as a "well-established doctrine" that "the territories of the United States are entirely subject to the legislative authority of congress. They are not organized under the constitution, nor subject to its complex distribution of the powers of government as the organic law, but are the creation, exclusively, of the legislative department, and subject to its supervision and control... It [congress] may legislate in accordance with the special needs of each locality, and vary its regulations to meet the conditions and circumstances of the people... In a territory all the functions of government are within the legislative jurisdiction of congress, and may be exercised through a local government or directly;" 86 Fed. Rep. 458, citing 16 How. 164; 101 U. S. 129; 114 *id.* 15; 136 *id.* 1; 141 *id.* 174; 153 *id.* 1.

When New Mexico was conquered by the United States it was only the allegiance of the people that was changed, their relation to each other and their property rights remained unchanged. The executive of the United States properly established a provincial government which ordained laws and instituted a judicial system, which continued in force until modified by the direct action of congress or by the territorial government established by it; 20 How. 176. See the articles on the various territories; 12 Harv. L. Rev. 205; *STATE*; *SOVEREIGNTY*; *UNITED STATES*.

**TERROR.** The state of the mind which arises from an event or phenomenon that may serve as a prognostic of some catastrophe; affright from apparent danger.

See *RIOT*; *ROBBERY*; *PUTTING IN FEAR*.

**TERTIUS INTERVENIENS** (Lat.). In Civil Law. One who, claiming an interest to the subject or thing in dispute in action between other parties, asserts his right to act with the plaintiff, to be joined with him, and to recover the matter in dispute, because he has an interest in it; or to join the defendant, and with him oppose the interest of the plaintiff, which it is his interest to defeat. He differs from the intervenor, or him who interpleads in equity. 4 Bouvier, *Inst. n.* 3819, note.

**TEST.** Something by which to ascertain the truth respecting another thing. 7 Pa. 423.

**TEST ACT.** The act of 25 Car. II. c. 2, by which it was enacted that all persons holding any office, civil or military (excepting some very inferior ones), or receiving pay from the crown, or holding a place of trust under it, should take the oath of alle-

Constitutional Income:  
Do You Have Any?

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### Geographical Classification

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Geographically, there are two systems of government provided by the Constitution. Each of these systems of government is regulated to a specific geographical area. One geographical area constitutes the several States. Today there are fifty of them. We call them the "several States of the Union." The other geographical area consists of all other areas which are part of the United States but are not themselves States of the Union. These are possessions, territories, enclaves and insular possessions, the federal states. They include such places as Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, military bases, enclaves, etc. In the case of a military base within the exterior boundaries of one of the several States (ie. the military base down the road from your community if you live in one of the 50 states), the federal government can not lawfully exercise their exclusive authority on the military base unless the legislature of that state ceded the real estate to the federal government. It is not enough for the federal government to just buy the property; the physical real estate must be ceded to the federal government by an act of the legislature of the state in order for the federal government to have exclusive jurisdiction. In this example, the federal government is known as the "United States," not the same as the "United States of America."

The power of our government to govern the areas under its jurisdiction which are outside, "without," the several States is given at Article I, section 8, clause 17, and Article IV, section 3, clause 2 of the Constitution. The first reads, "(The congress shall have power) To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United

States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." The latter clause reads, "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The power to "exercise exclusive legislation" does not constitute a government of limited powers. It is an all powerful government, but limited to specific geographical areas. We must remember that the Constitution was written by the states for the states. It was not written for any other purpose. This means the federal government is not restricted by the limitations of the Constitution in areas like Puerto Rico, unless Congress decides to limit itself, by statute, in these areas. For example, Congress could choose to adopt the Constitution as a statute for these federal areas if Congress wanted to do so. When Congress does this, Congress can make minute changes or huge omissions in the "statute" form of the Constitution.

**"6. That where the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith." *Downes v. Bidwell*, 182 U.S. 244, 271 (1901).**

What is significant about this is that Congress may pass laws which pertain only to the possessions and territories, and these laws may show up in the United States Code books. Consequently, just because you read a law in the United States Code books doesn't mean that law applies to you. You must first check the law's geographical and personam jurisdiction to see if the law applies to you. With hundreds of different definitions of the term "United States," it is likely it doesn't.

## Constitutional Income: Do You Have Any?

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Furthermore, because Congress can create "words of art" and "terms of art" for any statute they pass, Congress may choose to define the term "United States" as only the possessions and the territories. When Congress does this, a simple reading of the statute will cause the reader to think the statute applies to the "United States" as the conversational meaning of the term implies, i.e. the 50 states; when in fact the statute may only apply to the possessions and territories. Within the entire body of federal and state law, there are some 450 different definitions of the term "United States." This should raise a red flag in your mind.

Those who seek to return the federal government to its constitutional boundaries like to quote the Supreme Court case of Downes v. Bidwell, 182 U.S. 244, 267 (1901), as follows:

**"The power of Congress over the territories of the United States is general and plenary, arising from and incidental to the right to acquire the territory itself, and from the power given by the constitution to make all needful rules and regulations respecting the territory or other property belonging to the United States. It would be absurd to hold that the United States has power to acquire territory, and not power to govern it when acquired."**

What the Supreme Court is saying is what we read earlier, that the Constitution was written by the states and for the states; it was not written for the territories and possessions. Consequently, those people who live in the territories and possessions do not enjoy the same constitutional protections that we who live in the 50 states enjoy. In the territories and possessions, Congress is not bound "by the chains of the Constitution," as Thomas Jefferson put it.

## Pigeon Holes for Taxpayers

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For our subject matter of taxation, there are two other cases which are more on point. The first case is an income tax case from Hawaii in the year 1903. Hawaii was a territory at this time and did not become a state until 1959. In pertinent part, the opinion of the court was:

**"The provision that the legislative power shall extend to 'all rightful subjects of legislation' includes, therefore, full and comprehensive power to legislate in the matter of taxation. Article I, sections 8, of the Constitution, requiring 'that all duties, imposts, and excises shall be uniform throughout the United States,' can have no application to the powers of taxation of a state or territorial legislature. It is a rule only for taxation by the United States. The decisions of the Supreme Court construing and applying that provision of the Constitution and most of the discussion thereof found in the opinions filed in Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 15 S. Ct. 673, 39 L.Ed. 759, and on rehearing, 158 U.S. 607, 15 S.Ct. 912, 39 L.Ed. 1108, so freely quoted from and earnestly relied upon by the appellants, can have no bearing, therefore, upon the present discussion." W. C. Peacock & Co. v. Pratt, 121 F. 772, 776 (1903).**

Because Hawaii was a territory in 1903, the court said that the power of taxation possessed by the government within the territory of Hawaii is not restricted by the Constitution. Therefore, in territories Congress may tax whatever Congress wants to, and however Congress wants to. Any tax law either Congress or the territorial legislature passes for the Territory of Hawaii would therefore be constitutional. As we saw earlier, the power of Congress to govern in the territories is unlimited, unless Congress chooses to limit itself. Too bad for you if you live in a territory or possession.

## Constitutional Income: Do You Have Any?

The second case is from the Philippines and takes place after the 16th Amendment was ratified. The controversy was over income taxes paid in the year 1918 and concerns one of the first income tax statutes passed by Congress only five years after the 16th Amendment was ratified. Quoting from the case:

**"The power of Congress, in the imposition of taxes and providing for the collection thereof in the possessions of the United States, is not restricted by constitutional provision (section 8, article 1), which may limit its general power of taxation as to uniformity and apportionment when legislating for the mainland or United States proper, for it acts in the premises under the authority of clause 2, section 3, article 4, of the Constitution, which clothes Congress with power to make all needful rules and regulations respecting the territory or other property belonging to the United States, Binns v. United States, 194 U.S. 486, 24 S. Ct. 816, 48 L.Ed. 1087; Downes v. Bidwell, 182 U.S. 244, 21 S. Ct. 770, 45 L.Ed. 1088." Lawrence v. Wardell, 273 F. 405, 408 (9th Cir. 1921).**

It can not be said more plainly. The two rules which limit Congress' authority to levy taxes, namely the rule of apportionment and the rule of uniformity, do not apply outside of the several States. (There are some authorities that extend the uniformity requirement for indirect taxes to the possessions and territories.) In legalese, we would describe this geographical area as "within the exterior boundaries of the United States and without the exterior boundaries of the several States." Put another way, this describes the possessions, territories, enclaves, insular possessions, and Washington D.C. In these areas, Congress is not bound by the Constitution, and therefore, there is no such thing as "constitutional income" as the word "income"

## Pigeon Holes for Taxpayers

is used in the Constitution. How can you have "constitutional income" when the Constitution doesn't apply? "Income" is whatever Congress says it is.

Now ask yourself a question, "Is it possible that Congress passed an income tax law, uninhibited by the Constitution, which applies only in the territories and possessions, and then defined the territories and possessions to mean "United States"? If Congress did this, would you find this law in Title 26, the Internal Revenue Code? You bet you would! Would the law be unconstitutional? Well, if the law only applied to the territories and possessions, the law is constitutional regardless of what the law taxes or how the taxes are applied. So be careful when you state a particular income tax statute is "unconstitutional," you may be making a fool of yourself.

**"We are of the opinion that the island of Porto Rico is a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution. Downes v. Bidwell, 182 U.S. 244, 287 (1901).**

So here are our first two classes of persons, those who live within the exterior boundaries of the several States (they live in a state as we commonly think of a state) and enjoy the protections of a limited constitutional government, and a separate class of persons who live in the United States but without the exterior boundaries of the several States and do not enjoy the protections of a limited constitutional government. As we will see later, it is very important to be careful with the words we use. The word "state" is one of those suspect words with multiple definitions. We will see in Chapter 8 that the word "state" can actually apply within the several States while not designating one of the several States of the Union. Don't feel badly if this is confusing to you, it was designed to be that way.

## Constitutional Income: Do You Have Any?

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Lastly, there are some things that the government has no right to tax regardless of whether the tax is direct or indirect. This would have to do with one sovereignty placing a tax on another sovereignty, i.e. a state taxing the federal government, or visa versa. Since the "power to tax is the power to destroy," different sovereignties within our governmental system can not tax each other nor can they tax the instrumentalities of each other.

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"Justice Harlan, who concurred with the views expressed by Justice White, added: 'In such a case it is immaterial to inquire whether the tax (on the income of municipal bonds) is, in its nature or by its operation, a direct or an indirect tax; for the instrumentalities of the states are not subjects of national taxation in any form or for any purpose.' And Justice Brown stated that a tax upon the income of municipal bonds was, in his opinion, a 'tax upon something which Congress has no right to tax at all, and hence is invalid.' Here is a question, not of the method of taxation, but of the power to subject the property to taxation in any form. *Pollock v. Farmer's Loan and Trust Co.*, 157 U.S. 429, 654 (1895); 158 U.S. 601, 693, (1895)." Edwin R.A. Seligman, The Income Tax Amendment, 25 Political Science Quarterly 193, 199 (1910).

## Government Employees

The next class we will look at has to do with the place of employment of a natural person. For the purposes of federal income taxation, there are three classes of persons with regard to the place of employment. There are those who work in the private sector, those who work for state government or instru-

## Pigeon Holes for Taxpayers

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mentalities of state government, i.e. counties, cities, other governmental districts; and those who work for the federal government and it's instrumentalities.

Very early in American jurisprudence the doctrine of "The power to tax is the power to destroy" was established. This was a quote from Supreme Court Chief Justice Marshall in the case of *McCulloch v. Maryland*. In this case, the state of Maryland was attempting to tax a bank which was an instrumentality of the federal government. In ruling on this case, the court had to address the issue of our dual system of government whereby we have enumerated and limited powers granted to the federal government and other powers granted to our state governments. Each government is completely sovereign within its sphere of enumerated powers.

That our system of government is one of dual sovereignties is not expressly defined in any of our constitutions, although it is alluded to in the 10th Amendment. In reality, we actually have a governmental system based on a triple sovereignty where the People represent the third sovereignty of government. In resolving the issue as to whether or not the state of Maryland could tax an instrumentality of the national government, the Supreme Court said:

"There is no express provision [of the constitution] for the case, but the claim has been sustained on a principle which so entirely pervades the Constitution, is so intermixed with the materials which compose it, so interwoven with it's web, so blended with it's texture as to be incapable of being separated from it without rendering it to shreds." McCulloch v. Maryland, 17 U.S. 316, 426 (1819).

# SPECIAL CASE INSTRUCTIONS

Taxpayer's Name _____	Year(s)/Period(s) Ended _____
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QMS/PSP		
<b>Mandatory Review</b> <input type="checkbox"/> Employee Audits <input type="checkbox"/> Fraud (Prosecution Only) <input type="checkbox"/> Joint committee <input type="checkbox"/> TCMP <input type="checkbox"/> Other Compliance Studies  <b>Sample Review</b> <input type="checkbox"/> Systematic <input type="checkbox"/> Management Identified  <input type="checkbox"/> No QMS review _____ QMS Initial/Date	<b>Special Handling</b> <input type="checkbox"/> Closing Agreements (Forms 906 or 866) <input type="checkbox"/> Inadequate Records Notice <input type="checkbox"/> Informants Claim for Reward (F 47) <input type="checkbox"/> Mitigation of Statute <input type="checkbox"/> Offer in Compromise <input type="checkbox"/> Penalty (IRC 6700, 6701, 6702, 6659, 6707) <input type="checkbox"/> Personal Holding company <input type="checkbox"/> TEFRA Key Case <input type="checkbox"/> 90-Day Letter Fields, 30 day default) <input type="checkbox"/> Other _____	<input type="checkbox"/> Send all communications per PC  <input type="checkbox"/> Taxpayer's Address/Name Change _____ _____ _____ _____ _____ <input type="checkbox"/> Form 2363 sent to ESP

Expedite
Prompt Assessment Request, Statute Expires _____ Other _____

Reserved for  
Stamps

Examination Support and Processing Branch		
<table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Amended Returns  <input type="checkbox"/> Bankruptcy  <input type="checkbox"/> Civil Penalty (IRC _____)  <input type="checkbox"/> Claim Disallowance  <input type="checkbox"/> Earned Income Credit Adjustment  <input type="checkbox"/> Forward to Appeals  <input type="checkbox"/> IRA Adjustment  <input type="checkbox"/> Innocent Spouse Case  <input type="checkbox"/> Installment Agreement  <input type="checkbox"/> Joint Return-Agreement for one Spouse  <input type="checkbox"/> Joint to Separate/Separate to Joint  <input type="checkbox"/> Levy Source Document for Input  <input type="checkbox"/> Manual Refund:                (Deceased T/P, Hardship, Innocent Sp.)  <input type="checkbox"/> No Show/No Response/Undeliverable             </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Partial Agreement  <input type="checkbox"/> Partial/Full Payment  <input type="checkbox"/> Partial/Full Claim Disallowance  <input type="checkbox"/> Penalty Case File  <input type="checkbox"/> Prepayment Credit  <input type="checkbox"/> Restricted Interest  <input type="checkbox"/> Scramble/Multiple TIN  <input checked="" type="checkbox"/> Self Employment Tax Case  <input type="checkbox"/> Taxpayer's Copy                Years: _____  <input checked="" type="checkbox"/> Taxpayer Data Disk  <input type="checkbox"/> Tax Motivated Transactions  <input checked="" type="checkbox"/> Transferor/Transferee  <input type="checkbox"/> Two Agreed Reports             </td> </tr> </table> <input checked="" type="checkbox"/> Other - See Reverse Side: <u>Fraud Suspense - CI has case in for criminal fraud -</u> _____ <input type="checkbox"/> Related Cases ( of ): <u>Fraud Suspense case - close to PSPP -</u> _____ <input type="checkbox"/> Special Instructions (State Nature): _____ _____ _____	<input type="checkbox"/> Amended Returns <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Civil Penalty (IRC _____) <input type="checkbox"/> Claim Disallowance <input type="checkbox"/> Earned Income Credit Adjustment <input type="checkbox"/> Forward to Appeals <input type="checkbox"/> IRA Adjustment <input type="checkbox"/> Innocent Spouse Case <input type="checkbox"/> Installment Agreement <input type="checkbox"/> Joint Return-Agreement for one Spouse <input type="checkbox"/> Joint to Separate/Separate to Joint <input type="checkbox"/> Levy Source Document for Input <input type="checkbox"/> Manual Refund: (Deceased T/P, Hardship, Innocent Sp.) <input type="checkbox"/> No Show/No Response/Undeliverable	<input type="checkbox"/> Partial Agreement <input type="checkbox"/> Partial/Full Payment <input type="checkbox"/> Partial/Full Claim Disallowance <input type="checkbox"/> Penalty Case File <input type="checkbox"/> Prepayment Credit <input type="checkbox"/> Restricted Interest <input type="checkbox"/> Scramble/Multiple TIN <input checked="" type="checkbox"/> Self Employment Tax Case <input type="checkbox"/> Taxpayer's Copy Years: _____ <input checked="" type="checkbox"/> Taxpayer Data Disk <input type="checkbox"/> Tax Motivated Transactions <input checked="" type="checkbox"/> Transferor/Transferee <input type="checkbox"/> Two Agreed Reports
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(See Chapter 300 of IRM 2116)

Any document on which this cover sheet is used must always be under the personal observation of an authorized IRS employee or locked in a container.

When separated from safeguarded document(s), this cover sheet requires protection.

*John J. Jones*

SUBSEQUENT YEARS

PERIODS	DATE ORDERED	RETVUE BRTVUE/ RETURN	DATE RECEIVED	STATUTE	ACTION TAKEN
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

NARRATIVE OF SPECIFIC ACTIONS AND OTHER APPROPRIATE NOTES.

DATE ACTION/BY

6/25/98 - requested current transcripts - to name FF + 314

7/8/98 - Case to District Council (b)(3) 6103 (a)

11/23/98 - 9412 tax period dropped from AIMS. Discussed w/ AIMS group  
resubmitted on NMF. *dlw*

1/4/99 - Discussed w/ D. Hawn - receipt 9412 for AIMS - 424 states

FRAUD SUSPENSE CONTROLS - STATUS 32

NAME & EIN	DATE RECEIVED FOR SUSPENSE	ORGAN. CODE	AGENT	DATE IN ( )	
PERIOD(S)	STATUTE ON AIMS ERCs	VERIFIED BY DFC (DATE & INITIAL)	ORIGINAL OR COPY	OPEN UNDER 6501(e)	6S VE BY
<u>9415</u>	<u>04EE98</u>	<u>SA 8/1/98</u>	<u>MR</u>		
<u>9572</u>	<u>04EE99</u>	<u>SA 8/1/98</u>	<u>MR</u>		
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

RELATED CASES: *(b)(3) 6103(a)*

FOLLOW-UP TRANSCRIPTS SHOULD BE PULLED EVERY 120 DAYS, INITIAL BELOW REVIEWED. DATE/ INITIAL

\_\_\_\_\_ / \_\_\_\_\_

\_\_\_\_\_ / \_\_\_\_\_

DATE ORIGINALS SENT TO COUNSEL 7-8-98

MEMO TO CID TO SOLICIT A CONSENT    YES    NO    YEAR(S) \_\_\_\_\_

DATED \_\_\_\_\_

MEMO TO ALLOW STATUTE TO EXPIRE    YES    NO    YEAR(S) \_\_\_\_\_

DATED \_\_\_\_\_



# Civil Fraud Penalty Monitoring Form

Form 6809 will be used on all cases involving:

- (1) Examination Fraud Referral to Criminal Investigation Division
- (2) Criminal Investigation Division Generated Case (Includes all requests for a cooperating examiner not based on an Examination Referral and Criminal Investigation Division investigations forwarded to Examination Division for resolution where CFP Penalties are considered)

1. Name of Taxpayer (Last Name, First Name)		2. Name of Examiner (Last Name, First Name)		3. SSN		4. EIN		5. Examiner's Grade		6. D.O. Code		7. Org. Code		8. Case Initiated		9. A.	
10. Source of Civil Fraud Penalty Case (check one)		11. Type of Evasion (Method of Detection) (check one)															
<input type="checkbox"/> a. Examination Generated Civil Fraud Referral		<input type="checkbox"/> a. Omitted income - spec. item		<input type="checkbox"/> e. Signing false doc													
<input checked="" type="checkbox"/> b. Examination Generated Criminal Fraud Referral		<input type="checkbox"/> b. Omitted income - indirect meth.		<input checked="" type="checkbox"/> f. Failure to file													
<input type="checkbox"/> c. Criminal Investigation Generated Case		<input type="checkbox"/> c. False expenses/deductions		<input type="checkbox"/> g. Other (explain)													
		<input type="checkbox"/> d. Altered documents															

## Results of Examination (Group Level)

12 a. Period		12 b. Return Form	12 c. Amount Original Deficiency (excluding penalties)	12 d. Mandatory entry Amount Civil Fraud Pen 6663 (PRE-89 6653(b)) Fraud. Fail to File 6651(f)	12 e. Amount Accuracy Rel Pen 6662 Negligence Pen (PRE-89 Years 6653(b))	12 f. Amount Late Filing Pen
Y	Y	M	M			
Total						

## Final Results (To be entered when final administrative action is completed on the Civil Fraud Issue by or Appeals)

13 a. Period		13 b. Return Form	13 c. Amount Revised Deficiency (excluding penalties)	13 d. Amount Civil Fraud/Fraud Failure to File Penalty Sustained	13 e. Amount Civil Fraud/Fraud Failure to File Penalty Removed	13 f. Amount Civil Fraud/Fraud Failure to File Penalty Reduced
Y	Y	M	M			
Total						

14. If fraud (PRE-89 Fraud) Fraud Fail to File Penalty recommended by examiner was removed or reduced, it was <input type="checkbox"/> a. On recommendation by Appeals <input type="checkbox"/> b. By District Counsel		15. Reasons CFP/FFFP removed/reduced: <input type="checkbox"/> a. Additional information supplied <input type="checkbox"/> b. Insufficient evidence to sustain fraud <input type="checkbox"/> c. Hazards of litigation <input type="checkbox"/> d. Other	
--	--	--	--

16. If the CFP was removed, has the accuracy related penalty (Pre-89 negligence penalty) been asserted?  Yes  No

17. Remarks & disposition (continue on separate sheet if necessary)

AMDISA MFT>30 TX-PRD>199512  
PRIMARY-NAME>NO NAME FOUND  
ASED> / /  
SOURCE-CD>24 REFUSAL TO FILE TDI

NM-CTRL>WATT  
JULIAN-DT>1998352  
OPNG-CRTN/TRANSFR-DT>11/03/1996  
EXAM-START-CYC>199611

ACTY-CD>537

TC 424 RECORD

SUSP-CD>2

STATUTE-XTRCTN-IND>0 PARTIAL-AGRMT-IND>0 TC-300-IND>0  
DO/SC>56

AIMS-FRZ-CD>X

CURRENT-STATUS-CD/DATE

PRIOR-STATUS-CD/DATE

32 GENERAL FRAUD

06/23/1998 41 PSP SUSPENSE

06/12/1998

1113<ORG-CD 0000<PR-ORG-CD

UPDT-CD>E

PR-UPDT-CD>E

PROJ-CD>095

PUSH-CD>037

RET/5546/LABELS NOT REQ

PICF-CD>0

XREF-DLN>56/2/77/308/200/00/6

RET-PSTNG-YR>1996

NM-LN-YR>0000

PRIMARY-NM-LN>

NAME-ADDRESS SECTION NOT PRESENT

CONTINUATION-OF-PRIMARY-NAME>

STREET>

CITY>

STATE>

ZIP>

\*THIS IS THE ONLY TAX-PERIOD AVAILABLE ON AIMS FOR THIS TIN\*

AMDISA

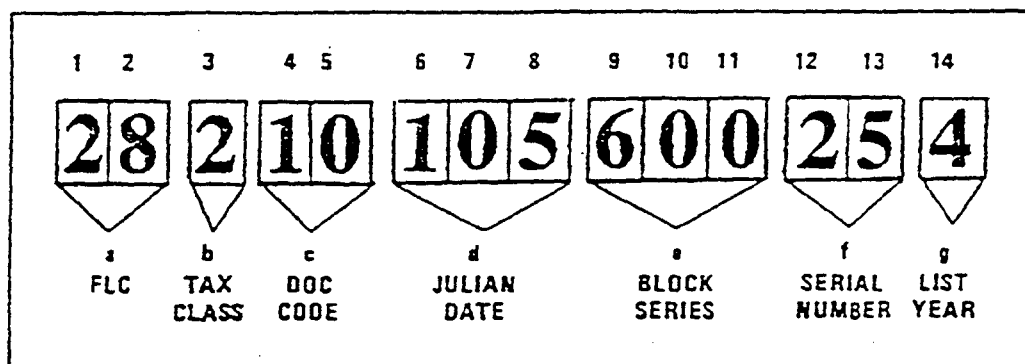
REQUESTED RECORD NOT AVAILABLE

56/2/77/308/200/00/6

## Section 4. Document Locator Number

### .01 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 which consists of nine digits, for example:  
 Social Security Number .....XXX-XX-XXXX (IMF, IRAF)  
 Employer Identification Number .....XX-XXXXXXX (BMF, EPMF)  
 NOTE: A temporary Social Security Number is sometimes assigned by the Service Center. It consists of nine digits. 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\* (T indicates a temporary social security number, 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 consist of the Filing Location Code (Service Center or District Office). The Service Center codes have replaced the District Office Codes in the DLN. District Office Codes are still used in IDRS and other district-initiated transaction DLNs. During heavy filing periods, D.O. Codes will be 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 FICA
  - 2 - Individual Income Tax, Fiduciary Income Tax, Partnership return
  - 3 - Corporate Income Tax, 990C, 990T
  - 4 - Excise Tax
  - 5 - Information Return Processing (IRP)
  - 6 - NMF
  - 7 - CT-1

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- 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
  - 54 - DP Adjustment
  - 63 - Entity changes
- (d) The sixth, seventh and eighth digits are the control (Julian) dates. This would be the deposit date of remittance received with a return or payment documents; Sunday date when numbering NR returns that week; transfer date-transfer of credits; 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.
- (e) The ninth, tenth and eleventh digits are the block numbers. 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 4.09 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 year last year digit of the year the DLN was assigned. This digit is Computer Generated.
- (6) The original DLN of the return follows 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.

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211

NAME:	
YEAR: 199612	TIN:

NOL CF Disallowed Amount	44-	
NOL Indicator	45-	
Credit CF Disallowed Amount	46-	
Credit Type (only if Disallowed)	47-	

CEP Case Enter L	400-	
Whipsaw Indicator	401-	

International Examiners Time	402-	Percentage of Total Time (Item 24)
International Exam Results	403-	Percentage of Total Results.



FORM 720	a. Abstract Code	b. Disposal Code	c. Abstract Time	d. Abstract Examination Results
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/

RELATED RETURN SECTION (Enter data from primary return)		
405- Primary Return TIN 2. 19961233	406-Prim. Ret. MFT 30	407-Prim Ret. Tax Period 199612
408- Related Return Alpha Code P	P = Primary Return S = Secondary(Related) Return	

Aging Reason Code	410-	
-------------------	------	--

Payment Code	411-	N
--------------	------	---

Installment Agreement Code	412-	N
----------------------------	------	---

Delinquent Return Amount	414-	
Amended Return Amount	415-	

SERVICING SERVICE CENTER CINCINNATI

FEDERAL RECORDS CENTER

002086  
 1. SS OR EIN NUMBER      2. FORM NO.      3. PERIOD      4. DATE      5. DLN AND PROCESSING YEAR  
 199612      03-07-2000      17247151110002819  
 VVVVVV      402  
 III  
 6. TAXPAYER'S NAME AND NAME CONTROL      8. RENUMBERED DLN AND PROCESSING YEAR

7. REQUESTER AND REMARKS  
 CINCINNATI      WASHINGTON, PENNSYLVANIA

DISCLOSURE STOP 68  
 SECOND REQUEST

MAR 08 2000  
 Servicing Center  
 Cincinnati Service Center

TERMINAL OPR NO 178022633

FOR FILES USE ONLY		FOR REQUESTERS USE		FOR RECORDS CENTER USE	
<input type="checkbox"/> DOCUMENT CHARGED-OUT		<input type="checkbox"/> RECHARGE DOCUMENT TO:		<input type="checkbox"/> DOCUMENT CHARGED-OUT	
NAME OR OTHER IDENTIFICATION		NAME OR OTHER IDENTIFICATION		NAME OR OTHER IDENTIFICATION	
DATE C/O	PHONE	DATE	PHONE	DATE C/O	PHONE
<input type="checkbox"/> NIF (REMARKS):		DOCUMENT RETAINED IN FRC (NAME AND LOCATION)		FORM OR CP NUMBER	
<input type="checkbox"/> UNSERVICEABLE (REASON):				FRC RESEARCHER	
FILES RESEARCHER		REMARKS		DATE SEARCHED	
DATE SEARCHED				<input type="checkbox"/> REQUEST IS UNSERVICEABLE (REASON)	
<input type="checkbox"/> CHARGED TO				<input type="checkbox"/> JULIAN DATE OR YEAR NOT TRANSFERRED	
<input type="checkbox"/> EXAMINATION CYCLE _____ SOURCE CODE _____				<input type="checkbox"/> DOCUMENT CLASS OR CODE NOT TRANSFERRED	
<input type="checkbox"/> SOI CYCLE _____ PAGE/LINE _____				<input type="checkbox"/> BLOCK MISSING	
				<input type="checkbox"/> WRONG DLN	
				<input type="checkbox"/> OTHER	

RETURN CHARGE-OUT      FORM 4251 (Rev. 6-90)

**RECEIVED**

MAR 13 2000

213

DISCLOSURE OFFICE CP:D

TIN TSC I DLN 17 2 47 - 511 - 000 28 - 9  
MFT 30 PERIOD 199612 INPUT 04-19-1999 EMPL.NO 1782105 .3  
NAME CONTROL HR CYC DELAY CD 0 TRI SEQUENCE NO 0033  
INT DT 00-00-0000 PRI CD HOLD CD APPL CD DISP CD 10 EXAM RECM

TRANSACTION CODES AND AMOUNTS

300 3,085.00 170 164.20 160 771.25  
.00 .00 .00

REF NUMBERS AND AMOUNTS/NO CHANGE ISSUE CODES

888 26,212.00 886 20,312.00 .00  
.00 .00 .00  
.00 .00 .00

SETTLEMENT AMT AIMS RESULT AMT 3,085.00  
AGREEMENT DT - - CLAIM REJECTION DT - - ASED 04-26-2002  
INT TO DT - - 2% INT DT - - 30/90 DT - -  
30/90 AMT  
DMF AGENCY CD MATH ERROR CD  
TXPR CORRESPONDENCE DT - - CREDIT INT DT - -

214

Examination Closing Record

P47-48

C-Operator Employee no.

**1782109008 - SF R**  
**APR 13 1999**  
**034**

A- [ ] CC TSCLS  
 P1-6 CC AMCI E

[ ] E

Date:

E-Document Locator Number

F-Cor.

P7-18 TIN	P21-22 MFT 30	P24-29 Tax Period 199612	Appeals Office Code 16-	REVENUE BASE PROTECTION SECTION
P31-34 Name Control	B-Name	Appealed/Unagreed/Petitioned 18-	NAICS/MF Update Data 19-	.XX + -
Batch IND (NMF)	P36 Block P38-40 Number 00X	Override P42-43 DO Code	Sequence P45-47 Number	Claim Reject Date 20-
Individual Retirement Account	IRA 01-	MFT 29	Amount Claimed 21-	.XX
Penalty Reason Code 02-	Letter Dt 03-	RBP Hours 23-	Dollars Protected 22-	.XX
Letter Amount 04-	Claim Type 24-	Examiners Time 28-	Organization Code 29-	5221
2 Percent Interest Date 05-	Debit Interest to Date 6A-	Credit Interest Date 6B-	Examination Technique 30-	7
Compute Interest Amount 6C-	Hold Code 07-	Remarks:	Examiner's Grade 31-	07
Agreement Date 08-	Priority Code 09-	Grade of Case 32-	Related Return = R	
Settlement Amount 10-	Interest Computation Date 11-	Examiner's Name: Sester, M	Adjustment Amount 34-	.XX + -
→ 12- 300 /	3085.00 +	Manual Assessment Amount 35-	Hash Total 36-	.XX
12- 160 /	771.25 +	Includes: Items P24-27, 12, 15, 18, 21, 22, 23, 28, 34, 35, 44, 46, 402, 403, 404c, 404d, 414 and 415.	Delinquent Return 37-	R = Return T = TP & Return
Tax Liability, 12- 170 /	164207	Fraud 38-	Disclosure Code 39-	131
Penalty, and 12- /		Project Code 40-	Posting Delay Code 43-	085
Interest 12- /		No Change Issue Codes:		
Adjustments 12- /		41- a.	-	
Disposal Code 13- 10		b.	-	
Statute Extended To Date 14- 04/26/2002		c.	-	
15- 888 /	26212.00 +	d.	-	
15- 886 /	20312.00 +	e.	-	
Credits and Tax Computation Adjustments 15- /		I-Reviewer	Date	
15- /		J-CATP Case [ ]: Yes		
15- /		K-Tax Examiner: DS	Date 04/13/1999	

CLOSE ON DEFAULT



NAME:  
 YEAR: 199612 TIN: 000000000

NOL CF Disallowed Amount	44-	
NOL Indicator	45-	
Credit CF Disallowed Amount	46-	
Credit Type (only if Disallowed)	47-	

CEP Case Enter L	400-	
Whipsaw Indicator	401-	

International Examiners Time	402-	Percentage of Total Time (Item 24)
International Exam Results	403-	Percentage of Total Results.

FORM 720	a. Abstract Code	b. Disposal Code	c. Abstract Time	d. Abstract Examination Results
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/
	404-	/	/	/

RELATED RETURN SECTION (Enter data from primary return)		
405- Primary Return TIN 2000-0-1296	406-Prim. Ret. MFT 30	407-Prim Ret. Tax Period 199612
408- Related Return Alpha Code P	P = Primary Return S = Secondary (Related) Return	

Aging Reason Code	410-	
-------------------	------	--

Payment Code	411-	N
--------------	------	---

Installment Agreement Code	412-	N
----------------------------	------	---

Delinquent Return Amount	414-	
Amended Return Amount	415-	

SC 06 PC 055

# Examination Classification Checksheet

A. Taxpayer (Name and SSN)

9612

(Affix Label with Check Digit)  
"Examination Label"

0031

B. Type of Examination

- 1 Correspondence
- 2 Interview
- 3 Pre-Contact Analysis
- 4 Field Examination

C. Special Inventory

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

D. Priority No.

E. POD Override

F. Bypass Related AIMS Year

G. ADP Hash Total

Issue Number	"X" if Quest.	Issue	Issue Number	C	E	F	Issue
04		Filing Status (Married Filing Separately)					Schedule C, E or F Issues
05		Filing Status (Head of Household)	01	02	03		
<b>Exemptions</b>			50			Gross Receipts	
06		Dependents Who Live with TP	51			Indirect Method	
07		Other Dependents	40			Rental Income (Schedule E)	
<b>Income</b>			52			All Expenses	
08		Income W2/1099	53			Advertising	
09		Other Income	54			Bad Debts From Sales or Services	
10	X	IRMF - Red Tab Criteria	55			Car & Truck Expenses	
<b>Adjustments to Income</b>			41			Cleaning & Maintenance	
11		Individual Retirement Arrangements	56			Commissions, Cost of Labor, Labor Hired	
12		Alimony Payments	57			Cost of Goods Sold	
13		Self Employment Health Insurance	58			Cost of Livestock/Other Items Bought for Resale	
<b>Itemized Deductions - Schedule A</b>			59			Depreciation/Section 179	
14		Medical and Dental Expenses	42			Employee Benefit Programs	
15		State and Local Income Taxes/State Tax Refund	43			Freight & Trucking	
16		Real Estate and Personal Property Taxes	44			Feed Purchased	
17		Interest Expense	45			Seed and Plants Purchased	
18		Contributions	61			Fertilizer, Lime, Chemicals	
19		Casualty and Theft Losses	62			Gas, Oil and Fuel	
20		Moving Expenses	63			Insurance	
21		Miscellaneous Deductions (Other than EBE)	64			Depletion	
<b>Employee Business Expenses</b>			65			Interest Expense	
22		All Employee Business Expenses	66			Legal and Professional Expenses	
23		Automobile Expenses	67			Custom Hire/Machine Work	
24		Entertainment, Meals, Gifts and Other Expenses	68			Office Expenses	
25		Travel, Lodging and Other Expenses	69			Office in the Home	
30		Business use of Home	70			Pension/Profit Sharing Plans	
31		Education Expenses	71			Rent or Lease	
<b>Gains and Losses</b>			72			Repairs and Maintenance	
26		Bad Debts	73			Wages	
27		Stock Sales	74			Self Employment Tax	
28		Schedule D, Sales of Real and Personal Property	75			Supplies	
29		Sale of Personal Residence	76			Taxes	
<b>Other Taxes</b>			77			Travel, Meals, and Entertainment	
32		Alternative Minimum Tax	78			Utilities	
36		Self Employment Tax	79			Veterinary, Breeding, and Medicine	
37		Other Taxes	80			IRC 183 Business History	
<b>Tax Credits</b>			81			Other Expenses	
90		Child and Dependent Care Credit	82			Passive Activity Loss	
91		Foreign Tax Credit	60			Form 4797, Sale of Business Property	
92		Earned Income Credit					

Remarks: Classifier Comments (For Examiners Information Only)

PROTESTER / NON-FILER AS3  
ASSESS ALL APPLICABLE PENALTIES

Other Issues (Insert issue exactly as shown on return)

33		6754 form
34		
35		

I. Classifier (Initial, Number or Stamp)

CS76

J. Date Classified

112597

K. Reviewed

With  Without Screener

L. Date Reviewed

30 9612 1040A 12-15-97 HR DLN 17210-333-00712-7

HDD 31

NON EXAMINED DISPOSAL CODE  
CSR 002015 17

AIMS SERIAL NO D.O. 31140302

Renumbered DLN and Processing Year

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

DH 45103-2623 10A XREF DLN 31277-332-20000-7  
NO RETURN REQUESTED DISTRICT OFFICE 31

STATUTE DATE 12-03-00  
ACTIVITY CODE 530

OUTPUT/CYCLE 9751 DIF SEL R  
DISTRICT OFFICE 31  
SOURCE CODE 06

SORT KEY 120 04

AMT CLAIMED \$0 424 AUDIT REQUEST

9212AUDIT RESULTS - DISPOSALS 00 - AMOUNT \$19 ORG CD 1854  
9312AUDIT RESULTS - DISPOSALS 00 - AMOUNT \$196,719 STATUS CD 06

CURRENT RETURN PICK-UP AUDIT CODES 0/1 085 PDD 01  
DIF SCORE 000

424 DATE 11-28-97

501 AMOUNT \$0.00 NO CHANGE  
502 AMOUNT \$0.00 ISSUE CODES  
503 AMOUNT \$0.00  
506 AMOUNT \$0.00 DELQ-RET

9. For Files Use Only			10. For Requesters Use		
<input type="checkbox"/> NIF (remarks)			<input type="checkbox"/> Recharge document to:		
<input type="checkbox"/> UA (Document charged-out to:)					
Name or other identification		Phone	Name or other identification		Phone
Name and Type of Office			Name and Type of Office		
Division	Branch	Section	Division	Branch	Section
Unit	Group	Stop No.	Unit	Group	Stop No.
<input type="checkbox"/> DOCUMENT CHARGED TO EXAMINATION FUNCTION			Initiator of Recharge		Date
POD-Group	DO	Cycle	11. Document retained in FRC (name and location)		
Formula	Source Code	Examination Code	12. Remarks		
<input type="checkbox"/> Request is Unserviceable			<input type="checkbox"/> Document previously charged out to:		
Reason:			Requester identification (requester, case no. adj. DLN, requester program, etc.)		
<input type="checkbox"/> Julian Date or Year List not Transferred					
<input type="checkbox"/> Document Class or Code not Transferred					
<input type="checkbox"/> Block Missing			Form or CP Number		Chargeout Processing Date
<input type="checkbox"/> Wrong DLN					
<input type="checkbox"/> Other			FARC Researcher		Date of Search

FOR REC CTR USE

EXAMINATION RETURN CHARGE-OUT

FORM 5546 (C) (Rev. 4/89) 42639T

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IMF Filing Requirement Codes

Form 1040—U.S. Individual Income Tax Return

00	No return filed
01	Return not required to be mailed or filed
02	Form 1040A or 1040EZ filer (Package 50)
03	Form 1040 with Schedule A and B only. Principle non-business filer (Package 10)
04	Form 1040, Schedules A, B, D and E. Full non-business filer (Package 20)
05	Form 1040, Schedules A, B, D, E, C and F. Form 1040 business filer (Package 30)
06	Form 1040SS filer (Virgin Islands (DO 66), Guam, and American Samoa—DO 98)
07	Form 1040PR filer (Puerto Rico—DO 66)
08	Account is inactive. Return not required to be mailed or filed
09	Form 1040NR filer.
10	Form Schedule F Business with Farm Package. (Package 40)
11	IMF Child Care Credit present. (Package 00)
12	Schedule R/RP present. (Package 80)
13	Form 1040EZ

EPMF Filing Requirement Codes

Form	FR	DC
5500	X	37
5500-C	T	38
5500-EZ	Z	31
5500-R	T	30
5500C/R	T	38/30

12 Employment Tax

464	Form 940
465	Form 941
466	Form 942
467	Form 943
468	Form CT-1
469	Form CT-2
470	Form 1042
471	Form 1040PR
472	Form 1040SS

13 Excise-Form 720

000	Unused
001-010	Reserved
011	IRC 444 FY Election
012-013	Reserved
014	Aviation Fuel-Gasoline Non-Commercial
015	Reserved
016	Petroleum-Imported
017	Imported Chemical Substance
018	Oil Spill-Domestic Petroleum
019	Ozone Depleting Chemicals
020	Floor Stock Ozone Depleting Chemicals
021	Oil Spill Imported Petroleum
022	Telephone: Toll, Local, Teletype
023-025	Reserved
026	Transportation of persons by Air
027	Use of International Air Travel Facilities
028	Transportation of Property by Air
029	Transportation of Persons by Water
030	Policies Issued by Foreign Insurers
031	Obligations Not in Registered Form
032	Pistols and Revolvers
033	Truck/Bus Chassis, Bodies, Tractors
034-035	Reserved
036	Coal-Underground Mined
037	Coal-Underground % of Ton Price
038	Coal-Surface Mined
039	Coal-Surface Mined % of Ton Price
040	Gas Guzzler (Fuel Economy)
041	Fishing Equipment
042	Trotting Motors, Solar Devices
043	Reserved
044	Bows and Arrows and Crossbows
045	Reserved

Codes

11 Gift (Total Gifts)

423	Under \$5,000
425	\$5,000 Under \$10,000
427	\$10,000 Under \$20,000
429	\$20,000 Under \$50,000
431	\$50,000 Under \$100,000
433	\$100,000 Under \$200,000
435	\$200,000 Under \$500,000
437	\$500,000 Under \$1,000,000
439	\$1,000,000 and Over

12 Employment

464	Form 940
465	Form 941
466	Form 942
467	Form 943
468	Form CT-1
469	Form CT-2
470	Form 1042
471	Form 1040PR
472	Form 1040SS

13 Excise-Form 720

507	Pricing Issues
508	Economist Studies
514	Prods. & Comds. Aviation Fuel/Gasoline
515	Prods. and Comds., Add'l Tax On Fuels
516	Prods. and Comds., Petroleum @
518	Oil Spill—Domestic Petroleum
519	Ozone depleting Chemicals
521	Oil Spill—Import Petroleum
522	F & S. Telephone Services
525	F & S. Transportation by Air
527	F & S. Use of International Air Travel Facilities
528	F & S. Transportation Property by Air
529	Transportation by water
530	F & S. Policies Issued by Foreign Insurers
531	<u>F &amp; S. Obligations to Register</u>
532	<u>Mfg. Pistols and Revolvers</u>
533	<u>Mfg. Trucks, Bus Chassis and Body</u>
534	<u>Mfg. Other Auto Chassis</u>
535	<u>Underground Coal Mine 60%</u>
536	<u>Underground Coal Mine 2%</u>
537	<u>Mfg. Surface Coal Mine 25%</u>
538	<u>Mfg. Surface Coal Mine 2%</u>
540	Gas Guzzler
541	Mfg. Fishing Equipment
542	Mfg. Trotting Motors
544	Mfg. Bows & Arrows
545	Mfg. Firearms
548	Mfg. Truck Parts & Accessories
549	Mfg. Cartridges and Shells
550	Prods and Comds., Windfall Profit Tax—Quarterly
551	Mfg.—Alcohol acid but not used as fuel

Activity Code

**Notice of Federal Tax Lien**

District

PACIFIC-NORTHWEST

Serial Number

91998

For Optional Use by Recording Office

6321  
6322  
6323

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

Name of Taxpayer

Residence

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

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1990	541-38-7481	10/27/1997	11/26/2007	76343.78
1040	12/31/1992	541-38-7481	11/01/1994	12/01/2004	
1040	12/31/1992	541-38-7481	10/27/1997	11/26/2007	42565.51
1040	12/31/1993	541-38-7481	10/03/1994	11/02/2004	
1040	12/31/1993	541-38-7481	10/27/1997	11/26/2007	793.97

Place of Filing

COUNTY CLERK  
WASHINGTON COUNTY  
HILLSBORO, OR 97123

Total \$

119703.26

This notice was prepared and signed at Seattle, WA, on this,

the 10th day of December, 1999.

Return to:  
Internal Revenue Service  
915 2nd Ave., M/S W246, Lien Desk  
Seattle, WA 98174

Signature

for J. ROCKWOOD

Title

Revenue Officer 91-01-1811

(NOTE: Certificate of officer authorized by law to take this action)

← ↑ ↑ ↑ 220

FREEDOM OF INFORMATION ACT REQUEST

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

Former Acct #:

Date: \_\_\_\_\_

Dear Disclosure Officer:

1. This is a request under the FREEDOM OF INFORMATION ACT, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonably segregative. I am waiving inspection of the requested records.
3. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to me for the years: 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998.

BACKGROUND: Somebody from your office sent a correspondence (hereafter known as Exhibit A) from one of your examiner's and I cannot read the name.

5. Please send a copy of the documentation which shows the examiner's position and GS level with the IRS along with a printed copy of their name.

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

Sincerely,

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND SWORN:

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

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

Internal Revenue Service  
District Director

Department of the Treasury

2500 Financial Square, Suite 205  
Oxnard, California 93030

Form Number: 1041  
Tax Year(s): 1996

Person to Contact: Rafelle Glatter  
Badge : 77-01734  
Telephone Number: Pager 805-359-1315  
Voice Mail: 805-988-2195 X 2103

Reply To: Rafelle Glatter  
Date: May 4, 1999

We are requesting that you provide a copy of the governing instrument for the trust, any amendments, and the other information as listed below. Our authority for this request is found in the Income Tax Regulations Section 1.6012-3(a)(2). This regulation states that a copy of the will or trust instrument (including any amendments), accompanied by the fiduciary's written declaration under penalties of perjury, that the copy is true and complete copy, shall be filed at the request of the Internal Revenue Service.

In addition, the fiduciary shall provide a statement indicating the provisions of the will or trust instrument ( including any amendments) which, in the fiduciary's opinion, determine the extent to which the income of the trust is taxable to the trust, the beneficiaries, or the grantor, respectively.

The documents that you provide should include the following:

1. \_\_\_\_\_ Will or trust instrument that created the trust, along with any amendments.
2. \_\_\_\_\_ Listing of the assets contributed to the trust.
3. \_\_\_\_\_ Listing of the beneficiaries of the trust.
4. \_\_\_\_\_ Listing of the trustees.
5. \_\_\_\_\_ Trustees' minutes or resolutions that have the effect of amending the governing instrument.
6. \_\_\_\_\_ Fiduciary's declaration and statement.

Please provide the information requested to this office at the address shown above within 14 days from the date of this letter.

This request is not a notice of examination. If you have any questions, please call me at one of the numbers shown above. Thank you for your cooperation.

Encl. Pub.1

Sincerely yours,  
*Rafelle Glatter*  
Rafelle Glatter  
Revenue Agent

1 Exhibit A

Department of the Treasury  
Internal Revenue Service  
FOIA Disclosure Officer

DATE:  
CERTIFIED MAIL #  
Name  
ADDRESS  
Account #

Re: Freedom of Information Act Request for copy of *recorded* information

Dear Sir or Madam:

This is a request under the Freedom of Information Act, 5USC 552, or regulations thereunder. This request is not an interrogatory. There are no questions asked in this request.

Should you decide that this request has been sent to the wrong office please make certain that you forward this request to the proper office and notify me of same.

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).

BACKGROUND for Requests. Someone from the Internal Revenue Service sent me a letter (attached and marked as EXHIBIT A) and I cannot read the name.

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

I am attesting under the penalty of perjury that I am a category (E) requestor.  
PLEASE EXPEDITE THIS REQUEST.

1. Please send me a copy of the documentation that shows the above employee's position with the Internal Revenue Service.
2. Please send me a copy of the documentation which shows the GS level of the individual who sent me the aforementioned correspondence (Exhibit A).
3. Please send me a copy of the above named individuals' job description and appointment letter.
4. Please send me a copy of the letter of authority for the individual who signed the above-mentioned (Exhibit A).
5. Please send me a copy of the delegation of authority order for the above named individual up to and including the District Director with a copy of the appointment letter.
6. Please send me a copy of all documents that disclose the identification number of the audit group and branch manager's name and title to which the requester's case has been assigned.

Upon renaming, renumbering or redesigning records infra, consider this request as seeking those records as identified with my name. Your reply must be specific, not broad in form.

County of \_\_\_\_\_ >

State of \_\_\_\_\_ >

Subscribed and sworn to before Me this \_\_\_\_ day of \_\_\_\_\_ 1999.

IN WITNESS WHEREOF, I have set My hand and official seal:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires



**Internal Revenue Service**  
Examination Division

**Department of the Treasury**  
P.O. Box 525  
208 Perry Street  
Defiance, Ohio 43512

Date: May 31, 2000

Person to Contact:  
Monica Mangas  
Employee Identification Number:  
34-04573  
Telephone Number:  
(419) 782-2724

Dear Sir or Madam:

The Internal Revenue Service has received information that the individual(s) and/or entities named below received payment from you during the tax year(s) 1998 and 1999. We would appreciate an explanation of the nature of the business transaction(s) and verification of the total amount(s) paid during each year. You may send us a copy of the Form(s) 1099 or Form(s) W-2 or list the amount(s) paid in the space below. If you list the amount(s) paid, please sign in the designated area of this letter.

- Please include copies of a sample of cancelled checks (front and back) for all the year(s) that payments were made.
- If there are any contracts concerning the assignment of income for this individual, please include a copy of that document.
- If payments were made electronically, please provide the banking institution's name, the account owner's name and the account number.

NAME OF PAYEE  
Alan Brodman

TAXPAYER IDENTIFICATION NUMBER  
268-76-8275

AMOUNT(S) PAID

YEARS

FORMS 1099

FORMS W-2

WITHHOLDING

SIGNATURE

Under the law, I am required to include your name on a list of people we have contacted about this individual. We are required to provide this list to the above named individual periodically and upon his or her request. However, the specific information that you provide to us is not given to that person. If you have reason to believe that including your name on this list may result in reprisal against any person, I am allowed to exclude your name from the list. Please send me a separate written statement if you have any reason to believe that including your name on the list of persons contacted may result in reprisal against any person.

Please respond to this inquiry by Thursday, June 15, 2000. This request is made under the authority of Section 7602 of the Internal Revenue Code, a copy of which is enclosed.

Sincerely,

*Monica Mangas*

Monica Mangas  
Revenue Agent

*mailed 6/5/00*



## FREEDOM OF INFORMATION REQUEST

TO:

Disclosure Officer/District Director or CEO  
RE: MRS. P. ACKLEY - REVENUE Agent  
Department of Treasury  
Internal Revenue Service  
900 FRONT ST

FROM:

1. This is a request under the Freedom of Information Act, 5 USC §552.
2. This is my firm promise to pay fees and costs for locating, duplicating and reviewing the documents and information listed below. As per Reg. 601.702(F)(3)(i)(E), I am making this request in the classification of "other requester." If costs are expected to exceed \$20.00, please send an estimate of the cost.
3. If some of this request is exempt from release, please send me those portions reasonably segregable and provide me with an indexing, itemization and detailed justification concerning information which you are not releasing.
4. Requester is in need of the following information to ascertain if claimed Agent MRS. P. ACKLEY is an employee of the United States of America or an employee of an agency of the United States of America and that he/she is acting within the bounds of his/her authority as such employee.
5. I understand the penalties provided in 5 USC §552(a)(1)(3) for requesting or obtaining access to records under false pretenses.
6. This request pertains to the years beginning with Agent MRS. P. ACKLEY's first employment with the Department of Treasury/IRS to the present year \_\_\_\_\_.
7. Please send me copies of the following documents as they pertain to MRS. P. ACKLEY personally, and or in his/her title role of REVENUE Agent, all of which documents I understand have been designated by the Office of Personnel Management as public information about employees of the United States of America.
  - a. All document(s) that include, identify, and describe the present and past position titles and occupational service of Agent MRS. P. ACKLEY.
  - b. All document(s) that include, identify, and describe the past and present grades of Agent MRS. P. ACKLEY.
  - c. All document(s) that include, identify, and describe the past and present annual salary, including performance bonuses, incentive awards, merit pay amount, Meritorious and Distinguished Executive Ranks, and allowances and differentials of Agent MRS. P. ACKLEY.
  - d. All document(s) that include, identify, and describe present and past duty stations (including room numbers, shop designations, or other identifying information regarding buildings or places of employment of Agent MRS. P. ACKLEY).
  - e. All document(s) that include, identify, and describe Agent P. ACKLEY's position description, identification of job elements, and those performance standards (but not actual performance appraisals).
  - f. All document(s) that include, identify, and describe Agent P. ACKLEY's specific "G.S. number," the meaning of the abbreviation "G.S." and a description an explanation of the numbering system used for "G.S." classification.
  - g. The specific document(s) of appointment for Agent MRS. P. ACKLEY to assert the title of "REVENUE Agent."

4. The specific "Delegation of authority" documents issued and applicable to Agent MRS P. ACKLEY at his/her present position, at his/her present office, that cover all aspects of his/her job description.

i. Any document that verifies the true identity of Agent P. ACKLEY as REVENUE AGENT

j. Copies of any documents that exempt Agent P. ACKLEY, or his/her division, from coming within the purview of the Freedom of Information Act, Privacy Act, and Administrative Procedures Act.

Dated: \_\_\_\_\_

S/ \_\_\_\_\_  
Requester

# Examining Officer's Activity Record

Examining Officer

Date assigned/Opened

Taxpayer (use the preprinted label if possible)

Taxpayer's Representative

Name:

Name:

Address:

Address:

Business Name:

Phone:

Does this case meet PRP Criteria?

Yes \_\_\_\_\_ No \_\_\_\_\_

Address:

Representative has:  Power of Attorney

Phone: Residence

Business

TP's Authorization

## Contacts and Activities

Date	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken

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

227

P00 01 HR SCORE 000 31140302  
17210-333-00712-7

9612 06  
05  
530  
1954

mining Officer Date assigned/Opened

628103 12-83-00

payer's Representative

Name:  
Address:  
Business Name:  
Address:  
Phone: Residence Business

Name:  
Address:  
Phone:  
Does this case meet PRP Criteria?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
Representative has:  Power of Attorney  
 TP's Authorization

Contacts and Activities

Date	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
SA 10-14-98			5	Send 255-C + RAK of NIK low stat 5600 SA 10-14-98 STAT NOTICE DEC 22 1998 mop
2299		DS	5	Tax protester, met get you can refuse for de fault (SCLIS)
APR 13 1999		DS	1	Release on default D.A.C.Y

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

## Statutory Notice Worksheet

<b>CC AMSTUS</b>	<b>Status Code 24</b>	Explanation (check one) <input checked="" type="checkbox"/> None <input type="checkbox"/> Paragraph 1 <input type="checkbox"/> Paragraph 2
------------------	-----------------------	---

Attach Label Here, Or Enter: <span style="border: 1px solid black; display: inline-block; width: 40px; height: 15px;"></span>	SSN	MFT	Tax Period	Name Control or CD
	30 9512	HR 03114	12 1	<span style="border: 1px solid black; display: inline-block; width: 40px; height: 15px;"></span>
STATUS -- ORG. -- OTHER CHANGE INFO				

Bypass Code <input type="checkbox"/>	Type of Penalty	Amounts
Requestor/Date <b>12/8/98</b>	1. <input type="checkbox"/> Negligence	
Operator/Date <b>DEC 08 1998</b>	2. <input checked="" type="checkbox"/> Delinquency	77125
Deficiency Amount	3. <input type="checkbox"/> Substantial Understatement	
<b>308500</b>	4. <input type="checkbox"/> Negligent Deficient Amount	
	5. <input checked="" type="checkbox"/> Estimated Tax	16420
	6. <input type="checkbox"/> Gross Valuation Overstatement	
	7. <input type="checkbox"/> Accuracy Related Penalty 20%	
	8. <input type="checkbox"/> Accuracy Related Penalty 40%	

# Non-Master File Assessment Voucher

1. Name and address			2. Document locator number (DLN)	
			3. Taxpayer identification number (TIN)	
4. Type of tax	5. Form number	6. Period	7. MFT code	8. Abstr. number
9. Tax			\$	
10. Penalty	I.R. Code Section or Type of Penalty	Trans. Code	Amount	
11. Interest			\$	
12. Total (Sum of Lines 9, 10, and 11)			\$	
13. Reason for assessment				
14. Signature of preparer			15. Date	

Form **5734** (Rev. 1-91)

Cat. No. 2772511

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer  
Internal Revenue Service  
FOIA Disclosure Officer

FROM:

Name Name  
xxxxx

1. Account#xxx-xx-xxxx

Dear 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 is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years:
5. Please send me a copy of the Non Master File Assessment Voucher 5734 and Comments Field maintained in a System of Records known as Integrated Data Retrieval System / IRS 34.018 which pertain to the above referenced SS# and person.

DATED:

Respectfully,

Name Name, Requester



FREEDOM OF INFORMATION ACT REQUEST

TO:  
Disclosure Officer  
Internal Revenue Service

FROM:  
Name Name

XXXXXX  
Account #: XXX-XX-XXXX

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: 199 , 199 , 199 .
5. Please send me a copy of the Non Master file and Comments Field maintained in a System of Records known as Integrated Data Retrieval System / IRS 34.018 which pertain to the above referenced SS# and person.

Dated:

Respectfully,

\_\_\_\_\_  
Name Name, Requester

# Handbook 1.3

## Disclosure of Official Information

### Chapter 13

#### Freedom of Information Act

##### Contents

- [\[1.3\] 13.1 Background](#)
- [\[1.3\] 13.2 Authority](#)
- [\[1.3\] 13.3 Responsibility](#)
  - [\[1.3\] 13.3.1 Functional Coordinators](#)
  - [\[1.3\] 13.3.2 FOIA Requests Sent to Multiple Offices](#)
  - [\[1.3\] 13.3.3 Requests for "all records concerning me"](#)
  - [\[1.3\] 13.3.4 Unique FOIA Aspects](#)
  - [\[1.3\] 13.3.5 Commercial Information](#)
  - [\[1.3\] 13.3.6 Requests for Petroleum Industry Records](#)
  - [\[1.3\] 13.3.7 Requests for Form 23C, Form 4340, Computer Generated Notices, and Delegation Orders](#)
  - [\[1.3\] 13.3.8 Requests for Electronic Filing \(ELF\) Information](#)
  - [\[1.3\] 13.3.9 Unclear Requests](#)
  - [\[1.3\] 13.3.10 Pseudo Requests](#)
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  - [\[1.3\] 13.4.1 Making Transfers](#)
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  - [\[1.3\] 13.4.3 Prompt Response](#)
    - [\[1.3\] 13.4.3.1 Alternate Procedures for Prompt Response](#)
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- [\[1.3\] 13.5 Responsive Documents](#)
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  - [\[1.3\] 13.5.2 Records of Contact With Foreign Governments](#)
  - [\[1.3\] 13.5.3 Joint Committee on Taxation Records of Contact](#)
  - [\[1.3\] 13.5.4 Documents Created by Other Federal Agencies](#)
- [\[1.3\] 13.6 Editing Records](#)
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- [\[1.3\] 13.7 Technical Instructions](#)
  - [\[1.3\] 13.7.1 Indexing](#)
  - [\[1.3\] 13.7.2 Declarations](#)

A copy of the disclosure notice shall be forwarded to the requester at the same time.

11. Whenever a requester brings suit seeking to compel disclosure of business information covered by 26 CFR 601.702(h)(4), the business submitter will be promptly notified thereof.
12. In the absence of any legal action to restrain release, the records will be made available to the requester. The response should identify any materials which are being withheld.
13. Certain business information provided to the Service by a business submitter is subject to a statutory prohibition against disclosure, and must be withheld under FOIA exemption (b)(3), citing 41 USC 253(b) as the supporting statute.
  - A. By invoking this exemption, the submitter-notice obligations set forth in 26 CFR 601.702(h) do not have to be followed.
  - B. The statute applies to all contractor proposals (including technical, business, management, and cost proposals) submitted in response to a solicitation for competitive bid, including RFPs. However, it does not prohibit the disclosure of proposals that are included or incorporated by reference, in an actual contract. Nevertheless, such included or incorporated proposals may contain commercial, financial, or other information that require protection under FOIA exemption (b)(4).

### **[1.3] 13.3.6 (08-19-1998)**

#### **Requests for Petroleum Industry Records**

1. The nationwide authority to determine intercompany and intracompany transfer prices of foreign-produced crude oil and by-products, and the acceptance of the average freight rate assessment as an intercompany charge for shipping of foreign-produced crude oil and by-products were delegated to the Regional Commissioner, Midstates Region by Delegation Order 153 effective October 9, 1996.
2. FOIA requests for records pertaining to the methodology, formula, or general data used in the determination of pricing information relating to the Petroleum Industry Program (PIP) should be promptly referred to the Regional Disclosure Officer, Midstates Region, for necessary consideration and direct response to the requester.
3. When a request is for both records described in (2) above and for records unique to the initial recipient office, the request will still be promptly referred as described above. The initial recipient will then process that portion of the request that pertains to the initial recipient.

### **[1.3] 13.3.7 (08-19-1998)**

#### **Requests for Form 23C, Form 4340, Computer Generated Notices, and Delegation Orders**

1. Some FOIA responses are being used by requesters in their substantive tax affairs as "evidence" of Service noncompliance with a variety of statutory and regulatory requirements under the Internal Revenue Code of 1986.
2. Responses to requests for Form 23C which merely advise the requester that "there is no Form 23C with (his or her) name on it" open the door for the requesters to utilize a "no assessment response" when challenging a statutory notice of deficiency.
  - A. To avoid this problem, Disclosure Officers should be making the Forms 23C or RACS Report-006, whichever is used (and related assessment records, such as Form 4340, *Certificate of Assessments and Payments*, Form 8166, *Revenue Accounting Control System Input Reconciliation Sheet*, etc.) available even though, technically speaking, the requestor's name does not appear on them.
  - B. The requester should also be informed that because assessment documents do not identify specific taxpayers, a transcript of account or other appropriate documents highlighting the amount of his or her particular assessment are being enclosed.

**NOTE:**

Records should be made available to requesters which show the same information that would have been shown on Form 23C if one with the requester's name on it had existed.

3. Similarly, a request for Form 4340 should be interpreted as a request for records which show that an assessment/payment has been made.
  - A. Disclosure personnel should provide a copy of Form 4340 if it exists.
  - B. If it does not exist, other records which reflect the same information should be provided.
  - C. Prepare a Form 4340 which shows the assessments and payments that are on an account. The requester should be informed that the Form 4340 was recently prepared for the purpose of showing what assessments/payments exist on the account. Where needed to be understood, clarifying comments/documents should be provided as explained in (2) above.
4. Similar problems arise when requesters are advised that no records exist in response to their requests for computer generated letters of notice and demand.
  - A. Advising the requester that there are no records responsive to a request for "notice and demand" letters affords the requester the opportunity to challenge the validity of a lien or levy in the requester's substantive tax affairs.
  - B. The requester should be essentially advised that the Service Center (or other office) does not routinely maintain hard copies of these notices, but an enclosed highlighted transcript of account reflects the issuance of these notices to the requester.
  - C. Where these documents are available, they should be made available to the requester.

**EXAMPLE:**

As part of the Collection file in a district office, the documents should be made available to the requester.

5. Another area in which "no record exists" responses are being used by requesters in their substantive tax affairs deals with requests for the "delegation order to a specifically named IRS employee that authorizes him or her to file tax liens." Although it may be true that no delegation order to a designated employee by name exists, the more appropriate response would be that:
6. "delegation orders are usually not issued to employees by name, but rather are issued to employees by position title. The attached copy of Delegation Order \_\_\_\_\_ is the authority for \_\_\_\_\_ to file tax liens."

**[1.3] 13.3.8 (08-19-1998)**

**Requests for Electronic Filing (ELF) Information**

1. When requests for nationwide information related to Electronic Filing (ELF) are received in Headquarters, the Headquarters office will officially respond to the requester.
2. The processing of Headquarters requests will be coordinated (through the appropriate Functional Coordinator) with Headquarters Electronic Tax Administration (ETA). ETA will coordinate with Headquarters Information Systems and the Service Centers, if needed.
3. When requests for local information related to Electronic Filing (ELF) are received in the Service Center, the Service Center will officially respond to the requester.
4. The processing of Service Center requests will be coordinated (through the appropriate Functional Coordinator) with the Service Center Electronic Filing Office for extraction of data.
5. When requests for local information related to Electronic Filing (ELF) are received in the District Office, the District Office will officially respond to the requester.
6. The processing of District Office requests will be coordinated (through the appropriate Functional Coordinator) with the Service Center Electronic Filing Office for extraction of data.

**[1.3] 13.3.9 (08-19-1998)**

**Unclear Requests**

1. Requests to inspect or copy records are sometimes unclear as to whether the request is made pursuant to the Freedom of Information Act or the Privacy Act of 1974. The following variations may be encountered:
  - A. The request cites neither the Freedom of Information Act nor the Privacy Act;

II. CONTENTS OF ABSTRACT

Rules Applicable

To meet the requirement of showing the nature, source, and validity of title to real property, an abstract must contain a full summary of grants, conveyances, wills, or other documents of record relied on as evidence of title. It should also contain brief extracts of the material parts of those documents, records of judicial proceedings, summaries of encumbrances, or other matters of record affecting title, and it should state whether or not such encumbrances have been released. And while generally an abstracter need not search for facts affecting title outside the record, if he is put on notice in his search that there may be such matters, he should note this in the abstract so that an intending purchaser is put on inquiry and can himself make any necessary outside investigation (1 Am Jur, Abstracts of Title, §§ 5, 6).

It is not the duty of an abstracter to render an opinion as to the legal effect of facts noted in his search, unless he has specially contracted to do so.

An abstract of title makes no representations as to the genuineness or authenticity of recorded documents.

IN GENERAL

1:12 Abstract of Title

Abstract of title to the North One-Half (N ½) of the Northwest corner (NW ¼) of Section sixteen (16), all in Township Twelve (12) South, Range Two (2), West of the Sixth Principal Meridian in the County of   1  , State of   2  .

ENTRY 1

State of <u>  3  </u> <u>  to  </u> <u>  4  </u>	<i>Patent</i> Dated: <u>  5  </u> Recorded: <u>  6  </u> • Book <u>  7  </u> Page <u>  8  </u>
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The state of   9   by   10  , Governor and   11  , Secretary of State, under the authority of the provisions of the   12   conveys to   13  , the North One Half (N ½) of the Northwest corner (NW ¼) of Section sixteen (16), all in Township Twelve (12) South, Range Two (2) West of the Sixth Principal Meridian, in the County of   14  , State of   15  

ENTRY 2

<u>  16  </u> <u>  to  </u> <u>  17  </u>	<i>Warranty Deed</i> Date: <u>  18  </u> Filed: <u>  19  </u> Recorded in Book <u>  20  </u> Page <u>  21  </u> Consideration: \$1.00 and other good and valuable consideration
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Granting Clause:   22    
Description :   23    
Warranty :   24    
Exceptions :   25    
Acknowledged :   26

ENTRY 16

In the District Court within and for

\_\_\_162\_\_\_ County, State of \_\_\_163\_\_\_

\_\_\_164\_\_\_, Plaintiff

vs.

\_\_\_165\_\_\_, Defendants

*Attorney's Lien Claimed*

No. \_\_\_166\_\_\_

Filed: \_\_\_167\_\_\_

PETITION

The Plaintiff, \_\_\_168\_\_\_, states that he is a resident of the State of \_\_\_169\_\_\_ and that the lands hereinafter described, etc.

ENTRY 17

The General Taxes levied on the property above described for the year 19\_\_\_170\_\_\_ and prior years have been fully paid, as shown by the real property rolls in the office of \_\_\_171\_\_\_, except for: \_\_\_172\_\_\_

Since \_\_\_173\_\_\_, 19\_\_\_174\_\_\_ at \_\_\_175\_\_\_ M., no Special Assessment has been levied against the above described property which has not been fully paid, as shown by the local assessments rolls in the Office of the \_\_\_176\_\_\_ of the County of \_\_\_177\_\_\_, except for the following: \_\_\_178\_\_\_

CERTIFICATE OF ABTRACTER

(See Forms Nos. 1:13-1:17 for proper certificate to be added)

Case Notes

The substance of all material terms of a recorded instrument affecting the title should be set out. Mercantile Trust Co. v. All Persons, 183 Cal 369, 191 P 691.

The absence of a certificate of acknowledgment should be noted. Id.

The form of the summary is a matter for the abstractor himself to decide. He may, for example, use abbreviations (Mathews v. Caldwell (Tex) 58 SW 810), or he may omit mention of acknowledgments when correct, and only mention them when absent or defective. Robbins v. Ginnochio, Tex Civ App, 45 SW 34.

In establishing the origin of title the abstractor need show only the issuance by the General Land Office of a final receipt or patent, properly identified. Kent Lbr. Co. v. Clarke, 79 Wash 523, 140 P 556.

The abstractor should identify as a part of the abstract all documents, relevant to the determination of title, that he attaches thereto. Thus, where the abstractor attached copies of probate proceedings but did not identify, authenticate, or refer to them within the abstract, they were held not a part of the abstract. Vangness v. Bovill, 58 SD 228, 235 NW 601.

If an instrument is executed by mark without showing that the execution was witnessed as required by law, the abstractor should note such defect. Mercantile Trust Co. v. All Persons, 183 Cal 369, 191 P 691.

A patent recorded in the general land office should be included, even if not recorded in the county where the land is situate. Mathews v. Caldwell (Tex) 258 SW 810.

1:13 Certificate of Abstracter

\_\_\_1\_\_\_ Tract # \_\_\_2\_\_\_

\_\_\_3\_\_\_ County \_\_\_4\_\_\_

Containing \_\_\_5\_\_\_ acres

I, \_\_\_6\_\_\_, Abstracter, do hereby certify that for the use and benefit of \_\_\_7\_\_\_ I have examined all the records of \_\_\_8\_\_\_ County, State of \_\_\_9\_\_\_

(excluding)—(including) the Federal records—insofar as they affect the title to the land captioned, that this abstract contains all the essential record data to be found in the aforesaid county, affecting the title to said land, and that the examination of said county records included a careful and diligent search for the following evidence of title affecting or relating to the instant land:

- (1) For all grants or patents.
- (2) For all deeds, deeds of trust, mortgages, miscellaneous contracts, releases of homestead and dower, cancellation, satisfaction, and foreclosure of mortgages, and deeds of trust.
- (3) For all wills, administration of estates, probates, incompetency, or other special proceedings, and partition suits.
- (4) For all attachments, judgments, decrees, lis pendens, suits, encumbrances, or other liens of any kind or character (including)—(excluding) Federal tax liens, and welfare liens.
- (5) For all taxes and special assessments (delinquent, current, and exigible) which, in any manner, attach to said lands down to the date of this certificate, and that according to the tax records of the aforesaid county, all taxes which are liens against the land, up to and including taxes which become a lien during the year   10  , have been paid, except as follows:   11   and   12  .
- (6) For all forfeitures to the State or county for the non-payment of taxes, redemptions thereof, and tax sales made by the county or State.
- (7) For all outsales, and for all adverse deeds or chains of title.

I hereby certify that all instruments of record shown in the foregoing abstract have been duly and regularly executed and acknowledged, unless otherwise noted, and that said abstract consists of one to   13   pages, inclusive.

Made this   14   day of   15  , 19  16  , at   17   (City),   18   (State).

  19    
Abstracter

Case Note

The abstracter need not verify his abstract by affidavit. *Womack v. Agee*, 79 W Va 22, 90 SE 792.

1:14 — By Abstract Company

State of   1   }  
County of   2   } ss.

The undersigned,   3   Company, a corporation, does hereby certify that the foregoing sheets numbered   4   to   5   both inclusive, contain a true and correct abstract of all instruments filed for record or recorded in the office of the County Clerk (formerly Register of Deeds) of said County, including the records from the office of the Clerk of the United States Court for any recording district in which said land was located, affecting the title to the following described real estate in said County and State:   6  .

That the acknowledgments of all such instruments are in correct form and are properly executed, except as otherwise shown.

That there are no judgments, transcripts of judgments, foreign executions,

probate proceedings, suits pending, or liens of any kind affecting the title to said real estate in any of the courts of record in said County, rendered or on file against any of the following named parties, as appears from the records in the office of the County Clerk thereof; except as shown in this abstract:   7  .

That according to the tax records in the office of the County Treasurer, said real estate has been assessed for each year; that there are no taxes assessed against said real estate, either general or special, due and unpaid, nor any tax sales thereof unredeemed; that no tax deeds have been given thereon; that there are no unpaid personal taxes against any of the above named parties or notices of taxes due the United States of America filed in the office of the County Clerk, which are a lien on said real estate, except as shown herein:   8  .

That the undersigned is a duly qualified and lawfully bonded abstractor, a member in good standing of the   9   Title Association, whose bond is in force at date of this certificate. That the undersigned has a complete set of indexes to the records in said County, compiled from the records and not copied from the indexes in the office of the County Clerk, and that the searches covered by this certificate reflect the records of said County and are not restricted to the indexes in the office of the County Clerk.

Dated at  10 , this the  11  day of  12  A. D. 19 13 .

 14   
Bonded Abstractor

Courtesy of Oklahoma Title Association, Oklahoma City, Oklahoma.

Case Note

An abstract may cover any period of time as is agreed upon when it is ordered, but, in the absence of agreement for a specific period, it should be certified up to the date of delivery. Mathews v. Caldwell (Tex) 258 SW 810.



1:15 — Supplemental or Continuation Certificate by Abstract Company

State of   1   }  
County of   2   } ss.

  3  , a corporation, being a duly licensed and bonded abstractor in said county and state hereby certifies that it has caused to be examined the records in the Office of the Register of Deeds, county treasurer, district court, probate court and all other county courts, affecting the title to the following described real estate in said county and state, to-wit:   4  

From and including the   5   day of   6  , 19 7 , at   8   M., to the date hereof.

That the following instruments have been filed in the Office of the Register of Deeds, since the above date, affecting the above described real estate, to-wit:   9  

That there are no judgments, mechanic's liens, foreign executions, executions, attachments or suits pending or transcripts of judgment from the state or United States courts, of record in the district court of said county, against:  10 

That there are no proceedings of record in the probate court of said county, pertaining to any of the following named parties:  11



FREEDOM OF INFORMATION ACT REQUEST

TO:

Department of Treasury  
Internal Revenue Service  
Foia Disclosure Officer

FROM:

Name Name

xxxxx

Account# xxx-xx-xxxx

Dear 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 is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: 199.
5. Please send me a copy "**Certified Abstract of the Judgment**" for the lien indicated with the Docket Locator Number ( ) as indicated on the 199 IMF Transcript Specific attached to this request. This return pertains to the above referenced SS# and person.

DATED: .

Respectfully,

Name Name, Requester

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE AND OCALA DIVISION**

**CERTIFICATE OF SEARCH**

At the request of \_\_\_\_\_ I have surveyed the party and case indices of the Jacksonville and Ocala Divisions of the United States District Court and have found the following information with respect to the individual/corporation listed below:

NAME OF PARTY: ASSOCIATES ENTERPRISES, INC.

(a) Certification of Negative Search Results:

- Not listed as a named party in any pending civil action.
- Not listed as a named party in any closed civil action.
- Not listed as a named party in any pending bankruptcy appeals.
- Not listed as a named party in any pending criminal action.
- Not listed as a named party in any closed criminal action.

(b) Certification of Positive Search Results:

\_\_\_\_\_ Listed as a named party in the following pending civil action(s):

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ Listed as a named party in the following closed civil action(s):

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ Listed as a named party in the following pending bankruptcy appeal(s):

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**CONTINUED ON REVERSE SIDE**

**SIDE TWO**

(b) Certification of Positive Search Results (Cont.):

\_\_\_\_\_ Listed as a named party in the following pending criminal action(s):

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ Listed as a named party in the following closed criminal action(s):

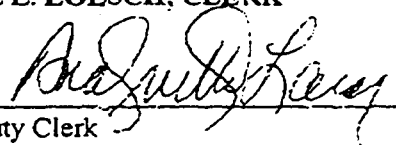
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(c) Other Certification:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

CERTIFIED this 12<sup>TH</sup> day of July, 2000 in Ocala, Florida.

**SHERYL L. LOESCH, CLERK**

By:   
Deputy Clerk

## 5355.2 (2-11-93)

## Request for Automated Lien Filing

(1) When it is determined that a notice of lien should be filed, the lien should be input to the Automated Lien System (ALS) or a request containing the necessary data should be forwarded to Special Procedures, or other designated function, for creation and filing of the lien through the Automated Lien System. When created, Part 1 and 2 will be sent to the recording office. Part 3 will be sent to the taxpayer.

(2) After filing, the recording office will return the Part 1 and/or 2 of Form 668(Y). When the automated lien record has been updated with the recording data, Part 2 will be forwarded to the requester. At District Office discretion, the Part 2 may not be forwarded back to the originator and instructions may be issued stating that the requester will check the ALS system for the recording information. The originator will then use the ALS facsimile as case documentation.

(3) Internal Revenue Regulations now permit Electronic Lien Filing (ELF) with recording jurisdictions. Regional and National Office (CO:O:2:CA) contact is required to work out details.

## 5355.3 (11-15-85)

## Preparation of Notice

## 5355.31 (5-13-94)

## General

(1) The correct preparation and timely filing of the Notice of Federal Tax Lien is the ultimate responsibility of the Revenue Officer assigned the case. The Revenue Officer should review the filed Notice of Federal Tax Lien for accuracy and retain a copy of the filed Notice of Federal Tax Lien in the case file. The Revenue officer may use Part 2 of Form 668Y or an ALS facsimile.

(2) Form 668(Y) may be prepared to cover several assessments against the same taxpayer.

(a) If the Form 668(Y) is prepared by listing one or more TDA's, separate entries will be made in each column for each TDA.

(b) If the Form 668(Y) is prepared from one TDA with multiple assessments shown, column (d) on the Form 668(Y) should show the assessment dates for all unpaid TC 150, TC 290, TC 300, TC 160, TC 166, TC 170, TC 176, TC 180, TC 186, TC 320, TC 350 and TC 240 with reference numbers 618, 680, 681, and 682. The T/C 166 Assessment date for IMF is the transaction

date. For BMF use the transaction date of the TC 150. Column (e) the last date for refiling the notice for each respective assessment (see IRM 535(11).3 for determining these dates) and column (f) the total outstanding assessed balance for that TDA at the time the notice of lien is filed. The "total amount" of each module should be input next to the last assessment date for each period.

(c) If the entire assessed amount has been paid but unassessed accrued amounts remain outstanding, a notice of lien may be filed without assessment of such accrued amounts. The total amount of the accruals as of the date the lien is requested, should be shown in column (f), "Unpaid Balance of Assessment."

(3) The taxpayer's name as shown on the notice of lien should agree with that stated on the TDA. However, there may be instances where the name on the notice of lien will not agree with what is on the TDA. For example: If only one party has extended the statute by waiver, the notice of lien should be filed in that taxpayer's name only. The use of initials only should be avoided. If the taxpayer's name on the TDA is incorrect, the notice of lien should state the name of the taxpayer correctly, and the necessary steps taken to correct the Masterfile. When it is evident that the notice of lien to be filed is intended to reach the right, title, and interest of an individual or corporate taxpayer operating under a trade name, both the individual and the trade name should appear as the taxpayer's name.

(4) The names of third parties that may be shown on the TDA, such as accountants, "c/o", etc., should never appear on the lien, nor should the names of officers be entered on a lien against a corporation. If they are named on the lien, it makes it appear that they are also liable for the tax when in fact they are not. Be aware that when you are dealing with a "c/o" entity you may also have the address of someone other than the taxpayer. When you delete the "c/o" line you must determine whether the mailing address belongs to the taxpayer. The Automated Lien System will automatically default the lien filing to the recording office which is correct for the zip code in the lien address. This could mean that if the address belongs to the taxpayer's accountant and the taxpayer lives in another geographical area which does not fall within the same recording office jurisdiction that the lien will not be correctly perfected and the interests of the government will not be protected.

5355.2

MT 5300-76

(2) Requests for information should be submitted by the District Director to the Director, Criminal Investigation Division, National Office, Attention: CP:CI:O. The information desired will be submitted through official channels and when obtained referred promptly to the District Director.

**333.7** (9-13-82) 9781  
**Comptroller of Currency (Bank Examiners' Reports)**

(1) National bank examinations are made to determine bank financial positions and to evaluate bank assets. Bank examiners' reports contain information about bank records, loans, and operations.

(2) In view of their purpose and the basis on which they are obtained, reports of national bank examinations and related correspondence and papers are deemed to be of a confidential nature. If it is necessary, in an examination of a taxpayer's books and records, that a special agent have access to information contained in a bank examiner's report, the request should be submitted by the Chief, Criminal Investigation Division, to the Assistant Commissioner (Criminal Investigation) (CP:CI:O). The request should set forth the taxpayer's name and address, the information desired, the reason it is needed, and the intended use thereof. The National Office will transmit the request to the Comptroller of the Currency.

**334** (11-16-80) 9781  
**Government Records**

**334.1** (11-16-80) 9781  
**Internal Revenue Service**

**334.11** (11-16-80) 9781  
**National Computer Center**

The National Computer Center maintains the master file which is a tax record of all known taxpayers. The master file is separated into several categories, some of which are the business master file (BMF), the individual master file (IMF), residual master file (RMF) and the retention register.

**334.111** (11-16-80) 9781  
**The Business Master File**

(1) The Business Master File (BMF) maintained on magnetic tape is a tax record of business taxpayers required by law and regulations

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(b) Business Taxpayer—A business taxpayer is a taxpayer conducting a business enterprise, the operations or products of which are subject to Federal taxation.

(c) BMF Taxes—The types of taxes processed to the BMF are limited to:

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- 13 Mutual Insurance Company Income Tax Return (Return Form 1120M)

(d) In addition, tax returns on exempt organizations which have income from investments are processed on BMF.

(e) BMF Sections—Each taxpayer's record on the Business Master File, as on the IMF, contains an entity file and a tax module file.

**334.112** (11-16-80) 9781  
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MT 9781-38

**334.112**

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5355.2

MT 5300-76

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**333.7 (9-13-82) 9781**  
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**334 (11-18-80) 9781**  
**Government Records**

**334.1 (11-18-80) 9781**  
**Internal Revenue Service**

**334.11 (11-18-80) 9781**  
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  - 4 Excise Taxes (Return Form 720)
  - 5 Railroad Retirement Taxes (Return Form CT-1)
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  - 7 Employment (Agricultural) Taxes (Return Form 943)
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  - 10 Partnership Income Taxes (Return Form 1065)
  - 11 Foreign Corporation Income Tax Return (Return Form 1120F)
  - 12 Life Insurance Company Income Tax Return (Return Form 1120L)
  - 13 Mutual Insurance Company Income Tax Return (Return Form 1120M)
- (d) In addition, tax returns on exempt organizations which have income from investments are processed on BMF.
- (e) BMF Sections—Each taxpayer's record on the Business Master File, as on the IMF, contains an entity file and a tax module file.

**334.112 (11-18-80) 9781**  
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MT 9781-38

**334.112**

IR Manual

TRANS CODE	DRUGR	FILE	TITLE	VALID DOCUMENT CODE	REMARKS
148		VB	Issuance of TDA or TDI Assembly	77	Causes the accelerated issuance of 4th notice (TDI or TDA) assembly when certain non-compliance conditions are present in ANY of the Tax Modules within the Account TC 148 with indicator of 02 will cause notices, TDI/TDA and transcripts to be marked to identify taxpayer as an illegal tax protector. Also TC 976, 977, 29X and 150 (except SFR return) will Unpost UPC 191. Refer to 11.05 (4) for Primary and Secondary TDI Codes.
		VB	Reversal of TC 148	77	Reverses TC 148 and permits the normal issuance of TDI and TDA.
150	Debit (NPJ)	VB E/A P	Return Filed & Tax Liability Assessed	MF: 07, 08, 09, 10, 11, 12, 21, 22, 26, 27, 33, 51, 72, 73, BMF: 08, 10, 11, 13, 16, 20, 25, 33, 35, 38, 40-44, 46, 51, 65, 67, 71, 81, 83, 90-93 TC 150 with Doc Code 51 may indicate "TC 610 posted - return lost EPMF: 30, 31, 33, 37, 38, in Service Center." 39 RAF: 11, 12, 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.
150		VA	Entity Created by TC 150	Generated Transaction	This TC 150 when posted to the Entity Transaction Section indicates the Master File Entity was created from the posting of the return.
151		E/A	Reversal of TC 150	77	EPMF: Reverses return data. RAF: Report Suppression.
152		VA	Entity Updated by TC 150	Generated Transaction	Designates a return which updated entity data and is posted to the Entity Transaction Section.
154		E	Posting F5330 Data	35	Posting of Form 5330 tax data.
157		B	Non-Discrimination Certification	84	Posted to indicate input of Form 5578.
159		I		Generated Transaction	Designates data as a Settlement Section of Return. Such data is dropped as soon as the return is settled. Does not appear on outputs.
160	Debit (NPJ)	VB A	Manually Computed Delinquency Penalty	47, 54	A Delinquency Penalty Assessment manually computed by Audit or Collection. Penalty is not recomputed by computer.
161	Credit (NPJ)	VB A	Abatement of Delinquency Penalty	47, 54	Abates previously posted 160, 166 Delinquency Penalty liability assessment in whole or in part. Penalty is not recomputed by computer.

BLANK if you filed by you 149

SFR → 150 by IRS

This 150 is from the Trans. From the BMF Exh G

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FORM NO.	DC/SC CODE	TAX CLASS & DOC CODE	BLOCKING SERIES	SPECIAL INSTRUCTIONS
1065	D	665	900-999	US Partnership
1066	AN	660	000-399	Prior to 8712
1120	D	620	100-199 200-299	Taxable Non-taxable ← Form 1120
1120	D	620	600-699	Non-taxable "PAC" only 75 and prior
1120F	P	667	000-399	PSC ONLY
1120ICDISC	D	669	200-299	Others
1120L/M		615	000-199 200-299 500-599	Taxable Non-taxable Renumbered misblocked re- by PSC only. Documents pri- or to 12/31/67 are numbered to P
1120ND	D	620	000	Trustee or disqualified perso- nality checked, part VI, page 2 show to be only entries after e section
1120S	D	620	700-799	Taxable "PAC" only 7511 an prior
1120S	D	616	900-399	"PAC" case
1120X	D	620	800-899	"PAC" case
1296	D		647	
1331	D	654	200-210	
1331-B	D	654	211-219	
1331-C	D	654	220-229	
2290	D	695	000-399	
2438	D	686	000	
2749	D	654	190-198	100% Penalty Assessment
3177/3177A	D	677	000-399	
4720A	D	671	000-399	
5227	D	683	000-399	Form 1041PF
5330	D	635	500-599	Original Form 5330
5394	S	656	000-089 090-099	Taxpayer Transcript Request IDRS Request
5713	D	608	000	International Boycott Report Form 1041PSC
5734	D	665	000-049 050-099 655 190-199	TIN Penalty (IRP: see 3(10)(80) Failure to File Penalty Examination prepared Penalty TEFRA Civil Penalties, i.e., abusive tax shelters, Aiding and Abetting, and Frivolous Income Tax Returns
			420-424	Child Support Assessments
			600-649	Other Assessments
			950-959	IRC 6652 Penalty Assessments
			960-989	EP (SEOC cases) Penalty Assessments
			990-999	EO Penalty Assessments
5811	D	647	000-399	Titled "Audit Return Preparer Case Closing Document"

Doc Code	Description	Manual Abstract Codes	Com. Gen. Abstract Codes
76	Dep. Fund App. NMF WFT/FCA	001	
	8298	208	
87	Disnonored Checks	001	
	8298	208	
46	Partnership W/4		
	Foreign Pr	215	
<b>B. Individual Income (True Tax Class 2)</b>			
10	1040 Pre-ADP		004
24	C. act Adjustments	004 005	
27	Suc. Pay. Docs., 1040 Pre-ADP, 1041 Pre-ADP	004 005	
28	NMF TDA Payments	004 005	
44	1041 \$50,000 (+), Pre-ADP		005
62	Act. Pay., NMF Indiv.	004 005	
72/73	1040-NR		004
74	Misc. Rev. NMF Indiv.	004 005	
76	Dep. Fund App., NMF Indiv.	004 005	
87	Disnonored Checks	004 005	
23	8697	211 212	
81	1041A		155
65	1065	004	
<b>C. Corporation (True Tax Class 3)</b>			
15	1120 LFM		006
16	1120S		006
24	Credit Adjustments,	006 007 008	
	1066	207	
	Suc. Pay., 1120-Pre-ADP, 1120-S Pre-ADP,		
27	990-C, 990-T,	006 007 008,	
		009 191	
	1066	207	
28	NMF TDA Payments,	006 007 008	
		009 191	
	1066	207	
69	1120 DISC Penalty	006	
	1066-U.S. Real Estate Mortgage Investment		
60	Conduit Income Tax Return		
62	Act. Pay., NMF Corp.,	006 007 008	
	1066	207	
66	1120- <del>F</del> Non-Effectively Connected Income		006
67	1120- <del>F</del> Effectively Connected Income		006
74	Misc. Rev., NMF Corp	006 007 008	
	1066	207	
75	FTD NMF Corp.,	006 007 008	
	1066	207	
76	Dep. Fund App., NMF Corp.,	006 007 008	
	1066	207	
86	2438		006
87	Disnonored Checks,	006 007 008	
	1066	207	
69	8404	009	
23	8697	210	

NO PENALTIES

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## Section 2. Tax Returns and Forms

### .01 List of Returns and Forms.

Following is a list of tax returns and forms showing File Source, Tax Class, Master File Tax Account Codes, and Document Codes. \*Non-Master File. LEM 3(27)(68)0

	B—BMF	E—EPMF	I—IMF	N—NMF	A—RAAF			
Form No.	Title				File Source	Tax Class	MFT Code	Doc. Code
CP2000				I		2	30	64
CT-1				BN		7.8	08,71	11
CT-2				N		6	72	02
CTR				B		5		89
SS-4				E/B		0,9		04
SS-16								
TYD-14				VB		2,9		14
TY-15						1,2,3,4,5, 6,7,8		48
TY-18						2		17
TY-28						1,2,3,4,5, 6,7,8		17*
TY-D69				N		6		17,18
<u>W-2</u>						5		11,12,21
W2-G						5		32,88
W-3				B		1	88	Any
W-3SS				B		1		32,33,34,35
<u>W-4</u>						5		42
W-4E						5		42
11C				BN		4,8	83,96	03
11				BN		4, 6	61,*94	11
66								
514-B						1,2,3,4, 5,6,7,8		51
706				BN		5,8	52,*53	08
706A				N		6	53	84
706B				N		6	53	85
706GST(D-1)				B		5	78	59
706GST(T)				B		5	77	59

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Form No.	Title	File Source	Tax Class	MFT Code	Doc. Code
708NA	United States Nonresident Alien Estate Tax Return	BN	5,*6	52,*53	05
709	United States Gift Tax Return	BN	5,*6	51,*54	09
709A	U.S. Short Form Gift Tax Return	B	5	51	08
720	Quarterly Federal Excise Tax Return	BN	4,*6	03,*45	20,*30
730	Tax on Wagering	BN	4,*6	64,*97	13
809	Receipt for Payment of Taxes		1,2,3,4, 5,8,7,8,0		17,18
813	Document Register		1,2,3,4,5, 6,7,8,9		99
843	Claims		1,2,3,4,5 7,8,9		54,77
900	Tax Collection Waiver		2,8,9		77
928	Return by a Transferor of Property to a Foreign Corporation, Foreign Trust or Estate, or Foreign Partnership	N	6	81	32
940	Employer's Annual Federal Unemployment Tax Return	BN	8,*8	10,*80	40
940	Magnetic Tape Employer's Annual Federal Unemployment Tax Return	B	8	10	39
940EZ	Short Form Employer's Annual Federal Unemployment Tax Return	B	8	10	38
940PR	Employer's Annual Federal Unemployment Tax Return, Puerto Rico	B	8	10	40
941	Employer's Quarterly Federal Tax Return	BN	1,*6	01,*17	41
941	Magnetic Tape Employer's Quarterly Federal Tax Return	B	1	01	35
941C	Statement to Correct Information Previously Reported Under the Federal Insurance Contributions Act				
941E	Quarterly Return of Withheld Income Tax—NonFICA	B	1	01	46
941E	Magnetic Tape Employer's Quarterly Federal Tax Return	B	1	01	36
941M	Employer's Monthly Federal Tax Return	B	1	01	41
941NM	Employer's Tax Return of Northern Mariana Islands	N	6	17	41
941PR	Employer's Quarterly Federal Tax Return, Puerto Rico	B	1	01	41
941SS	Employer's Quarterly Federal Tax Return, Virgin Islands, Guam, American Samoa	B	1	01	41
942	Employer's Quarterly Federal Tax Return for Household Employees	BN	1,*6	04,*18	42
942PR	Employer's Quarterly Federal Tax Return, Household Employees, Puerto Rico	B	1	04	42
943	Employer's Annual Tax Return for Agricultural Employees	BN	1,*6	11,*19	43
943PR	Employer's Annual Tax Return for Agricultural Employees, Puerto Rico (PSC Only)	B	1	11	43
957	U.S. Information Return by an Officer, Director, or U.S. Shareholder with Respect to a Foreign Personal Holding Co.	N	6	24	
958	U.S. Annual Information Return by an Officer or Director with Respect to a Foreign Personal Holding Co.	N	6	25	

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Form No.	Title	File Source	Tax Class	IFT Code	Dep. Code
959	Return by an Officer, Director, or Shareholder with Respect to the Organization or Reorganization of a Foreign Corp. and Acquisition of its Stock	N	6	26	
964/968	Corporate Dissolution Indicator	B	9		78
990	Return of Organization Exempt from Income Tax	BN	4,*6	67	90
990-BL	Information and Initial Excise Tax Return for Black Lung Benefit Trust and Certain Related Persons	N	6	56	88
990-C	Farmer's Cooperative Association Income Tax Return	BN	3,*6	33	92
990EZ	Short Form Return of Organization Exempt From Income Tax	B	4	67	09
990-PF	Return of Private Foundation	BN	4,*6	44	91
990-T	Exempt Organization Business Income Tax Return	BN	3,*6	34	93
1040	U.S. Individual Income Tax Return	IN	2,*6	30,*20	11,12, 21,22, 10
1040A	U.S. Individual Income Tax Return	I	2	30	09,10
1040C	U.S. Departing Alien Income Tax Return	I	2	30	18,61
1040ES	U.S. Declaration of Estimated Income Tax for Individuals	I	2	30	20
1040EZ	U.S. Individual Income Tax Return	I	2	30	07,08
1040NR	U.S. Non-resident Alien Income Tax Return (PSC only)	IN	2,*6	30,*20, *21	72,73
1040PR	U.S. Self-Employment Tax Return—Puerto Rico (PSC only)	IN	2,*6	30,*22	27
1040SS	U.S. Self-Employment Tax Return—Virgin Islands, Guam, American Samoa (PSC only)	I	2	30	28
1040X	Amended U.S. Individual Income Tax Return	I	2	30	54
1041	U.S. Fiduciary Income Tax Return (For Estates and Trusts)	BN	2,*6	05,*21	44
1041	Magnetic Media U.S. Fiduciary Income Tax Return (For Estates and Trusts)	B	2	05	36
1041-A	U.S. Information Return—Trust Accumulation of Charitable Amounts	BN	4,*6	36	81
1041ES	Payment Voucher, Estimated Tax	B	2		17,19
1041-K1	Beneficiary's Share of Income, Credits, Deductions, Etc.		5		66
1041PF	(See Form 5227)				
1042	Annual Withholding Tax Return for US Source Income of Foreign Persons.	BN	1,*6	12	25
1042S	Foreign Persons US Source Income Subject to Withholding.	N	6	12	66
1045	Application for Tentative Refund				
1065	U.S. Partnership Return of Income	BN	2,*6	06,*35	65
1065-K1	Partners Share of Income, Credits, Deductions, Etc.		5		65
1066	Real Estate Mortgage Investment Conduit Income Tax Return	BN	3,*6	07	60
1096	Annual Summary and Transmittal of US Information Returns		5	88	68
1098	Mortgage Interest Statement		5		81

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2 23, Tolerance—Generated when a module is used to compute the aggregate IDRS module balance, & the module does not qualify for a notice at time of analysis—Relay Tolerance.

3 26, TDA—Generated when one or more module(s) with balance due meets the established TDA tolerance, or in response to Command Code STAUP.

4 29, Transferred Out—Indicates module balance has been transferred to another file.

5 53, Uncollectible—Generated when TC 530 pends to a module with CC 01-08 or 10-39 or TC 470 with CC 90 or 93.

6 89, Collection Suspended—Generated when TC 524, 520, 500, or 470 with cc 90 or 93 is input.

7 99, Transferred Out/SC Location—Generated when a module in TDA or Suspended Status is transferred out of the service center, but the account is still within the service center.

3(27)(68)(21) (1-1-90)  
**Non-Master File Account Codes (IDRS)**

3(27)(68)(21).1 (1-1-90)  
**MFT Codes—NMF**

(1) The MFT Code is an integral part of addressing and identifying modules on IDRS; consequently, all NMF Forms, plus all Master File Forms since they may be processed as NMF, are assigned an MFT code.

(a) MFT AND FORM OR TYPE OF TAX

- 1 00—Entity Section
- 2 07—1066, U.S. Real Estate mortgage Investment conduit Income Tax.
- 3 08—8804—Annual Return for Partnership Withholding.
- 08—8805—Foreign Partners Information Statement of Section 1446 Withholding Tax.
- 4 12—1042, U.S. Annual Return of Income Tax Paid at Source.
- 5 14—8613, Return of Excise Tax on Undistributed Income of Regulated Investment Companies.
- 6 17—941, Withholding and FICA
- 7 18—942, Household FICA
- 8 19—943, Agricultural FICA
- 9 20—1040, Individual Income Tax
- 10 21—1041, Fiduciary Income
- 11 22—1040PR, FICA (Puerto Rico)
- 12 23—1120 DISC—Domestic International Sales Corp. Return
- 13 24—957, U.S. Information Return by an Officer, Director, or U.S. Shareholder with Respect to a Foreign Personal Holding Co.
- 14 25—958, U.S. Annual Information Return by an Officer or Director with Respect to a Foreign Personal Holding Co.
- 15 26—959, Return by an Officer, Director, or Shareholder with Respect to the Organization or Reorganization of a Foreign Corp. and Acquisition of its Stock.
- 16 27—8725
- 17 28—Penalty against employers for failure to provide SSN of employees.
- 18 29—Excess Contributions Tax
- 19 31—1120S, Corporate Income Tax

- 20 32—1120, 1120 PF, L, M, Corporate Income Tax
- 21 33—990C, Exempt Cooperative Association
- 22 34—990T, Exempt Organization—Business
- 23 35—1065, Partnership Income
- 24 36—1041A, U.S. Info. Return on Trusts
- 25 37—5227/1041PF, Return Non-Exempt Charitable or Split Interest Trust Treated as a Private Foundation/Determination of Chapter 42 Tax
- 26 38—2438, Undistributed Capital Gains
- 27 40—5130.7, Beer Tax Return; 5120.7, Wine Tax Return or 5120.37, Wine Tax
- 28 41—5110.32 and 5110.35, Distilled Spirits; 5110.60 and 5110.39, Rectifier's Return
- 29 42—4735
- 30 43—Documentary Stamps
- 31 44—990PF, Return of Private Foundation
- 32 45—720, Excise Taxes
- 33 46—5734, Viet Nam Protest (Excise)
- 34 48—4638, Aircraft Use Tax
- 35 49—3780/3780A, Interest Equalization
- 36 50—4720, Initial Excise Taxes
- 37 53—706, U.S. Estate Tax Return
- 38 54—709, U.S. Gift Tax Return
- 39 55—Form 949, 949A—U.S. Annual Report on Navy Contract
- 40 56—990BL, Information and Initial Excise Tax Return
- 41 57—6069, Black Lung
- 42 59—NMF, Deserting Parents
- 43 65—5600.1, Alcohol and Tobacco
- 44 66—4720A, Initial Excise Taxes
- 45 67—990, Exempt Organization, 990EZ
- 46 68—990AR, Private Foundation Report
- 47 69—8697
- 48 70—Return Preparer's Penalty
- 49 71—CT-1, Railway Retirement Tax
- 50 72—CT-2, Railway Retirement Tax
- 51 74—5500C, 5500K, 5500, 5500R Employee Benefit Plans
- 52 76—Form 5330, Return of Initial Excise Tax on Prohibited Transactions
- 53 80—940, FUTA
- 54 81—926, Transferor Return of Property to a Foreign Corporation, Trust or Partnership.
- 55 89—8612, Return of Excise Tax on undistributed Income of REITs
- 56 90—2137, Impt. of Cigarette Papers; 5210.11, 5210.7, Manufacture Tobacco Products
- 57 93—2290, Highway Use Tax
- 58 94—11, Special Tax Return—Beer, etc.
- 59 95 11B
- 60 96—11C, Special Tax Return—Wagering
- 61 97—730, Tax on Wagering
- 62 99—Collection of Doc Code 27 Remittances from information documents

**3(27)(68)(22) (1-1-90)**  
**IDRS Notice Codes**

**3(27)(68)(22).1 (1-1-90)**  
**Notice Codes**

(1) These codes are used to identify Forms or Notices issued out of IDRS

(a) IDRS Notices or Forms (6XX Series equals Spanish Notices)—  
 Name or Description and Numbers.

- 1 1st Notice—Balance Due (501, 601)
- 2 2nd Notice—Balance Due (502, 602)
- 3 3rd Notice—Balance Due (503, 603)
- 4 Telephone Call Notice (507)—(no longer issued but can be present on file)
- 5 4th Notice—Balance Due (504, 604)
- 6 TDA (See TDA Type below) (505)
- 7 Levy (508)
- 8 Levy Source Listing (512)
- 9 Installment Agreement Reminder Notice (521, 621)
- 10 Review of Financial Condition (522, 622)
- 11 Installment Agreement Default Notice (523, 623)
- 12 Reserved
- 13 100% Penalty Assessment Statute Notice (527)
- 14 Satisfied Module with Lien File Notice (528)
- 15 Combat Status Verification (533)
- 16 Combat Suspension Termination (534)
- 17 Military Suspension Termination (535)
- 18 Collateral Suspension Termination (536)
- 19 Reissuance of Undeliverable Refund Check (564)
- 20 Notice of Check Not Accepted by Bank (587)

(b) EIN Research and Assignment System (ERAS) Notices.

- 1 New EIN Assigned—Form SS-4 (575)
- 2 New EIN Assigned—Sub EIN (576)
- 3 New EIN Assigned—Business Organization Change (577)
- 4 New EIN Assigned—Form 1041 or Form 942 (578)
- 5 New EIN Assigned—Form 2553 (579)

(c) TDA Type (Primary Selection Code)

- 1 DAA—TR, IMF & BMF
- 2 DAB—Re-issue-1, IMF & BMF
- 3 DAC—Q, IMF & BMF
- 4 DAD—RIV RET
- 5 DAE—X, BMF Only
- 6 DAF—D, IMF & BMF
- 7 DAG—IR, IMF Only
- 8 DAI—COA, IMF & BMF
- 9 DAJ—TPI, IMF Only
- 10 DAK—OTHER, IMF & BMF
- 11 DAL—REACTIVE, IMF & BMF (Generated on IDRS)
- 12 DAM—INSTALMT, BMF Only
- 13 Reserved
- 14 DAP—R, IMF & BMF
- 15 DAO—UNDEL, IMF & BMF (Generated on IDRS)
- 16 DAR—TRSF, IMF & BMF (Generated on IDRS)
- 17 DAS—4 (Routine), IMF & BMF



- 18 DAT—5 (Aggregate), IMF & BMF
- 19 DAU—POTDUPL—1, IMF & BMF (Generated on IDRS)
- 20 DAX—Z Penalty and/or Interest only IMF & BMF (Generated on IDRS)
- 21 DAY—914, IMF, BMF, and IRAF (Generated on IDRS)
- 22 DA2—P (Tax Protestor), IMF & BMF
- 23 DA3—W (Potentially Dangerous Taxpayer), IMF & BMF
- 24 DA4—E (W-4 Civil Penalty), IMF
- 25 DA5—T (Narcotics Trafficker), IMF & BMF
- 26 DA6—U (Special Enforcement Program Case), BMF
- 27 DA7—N (False Return Claim), IMF & BMF
- 28 DA8—S (Erroneous Refund), IMF & BMF
- 29 DA9—L (Letter 903 (DO) Case), IMF & BMF
- 30 DAV—534 (Potential Collection Statute Expired Liability), IMF &

**BMF**

- 31 DAW—UTCON, IMF ONLY
- (d) TDI Notices (6XX Series are Spanish notices)
  - 1 IMF/BMF/NMF 1st Notice (515,615)
  - 2 IMF/BMF/NMF 2nd Notice (516,616)
  - 3 IMF/BMF/NMF 3rd Notice (517,617)
  - 4 IMF/BMF/NMF 4th Notice (518,618)
  - 5 CAF (Combined Authorization File) 1st Notice (CAF 515, CAF 615)
  - 6 CAF 2nd Notice (CAF 516, CAF 616)
  - 7 CAF 3rd Notice (CAF 517, CAF 617)
  - 8 CAF 4th Notice (CAF 518, CAF 618)
  - 9 EPMF 1st Notice (403)
  - 10 EPMF 2nd Notice (404)
  - 11 EPMF 3rd Notice (405)
  - 12 EPMF 4th Notice (406)
  - 13 EOMF 1st Notice (411)
  - 14 EOMF 2nd Notice (412)
  - 15 EOMF 3rd Notice (413)
  - 16 EOMF 4th Notice (414)
- (2) Extract Special Notice Codes
  - 1. NML—MCC issued NMFL Liability Transcript (IMF/BMF)
  - 2. ODI—MCC issued TDI Research Transcript (IMF/BMF)

**3(27)(68)(22).2 (1-1-80)**

**TDI Notice Codes**

(1) Notice Codes A, I, U, T and D can be input to the TIF with CC TDIAD to be analyzed during weekend TDI analysis. Notice Codes F, V, Z and W (and sometimes A) are generated by TDI analysis. Notice Code C is input with CC TDIAD to generate CASE CODES to the TIF.

(2) TDI Notice Codes Input or Generated

Code	Title	Source	Explanation
A	ACCELERATED	Input or Generated	Input to accelerate account to TDI. Also generated by TDI analysis for certain cases accelerated to TDI by analysis.
I	INSUFFICIENT INFORMATION	Input	Input to delay routine notice or TDI issuance for 4 weeks, then accelerate account to TDI.

**Subpart F—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Distilled Spirits, Wines, and Beer**

**GENERAL**

- 70.501 Meaning of terms.
- 70.502 Applicability to certain credits or refunds.
- 70.503 Ultimate burden.
- 70.504 Conditions to allowance of credit or refund.
- 70.505 Requirements on persons intending to file claim.

**CLAIM PROCEDURE**

- 70.506 Execution and filing of claim.
- 70.507 Data to be shown in claim.
- 70.508 Time for filing claim.

**PENALTIES**

- 70.509 Penalties.

**Subpart G—Losses Resulting From Disaster, Vandalism, or Malicious Mischief**

**DEFINITIONS**

- 70.601 Meaning of terms.

**PAYMENTS**

- 70.602 Circumstances under which payment may be made.

**CLAIMS PROCEDURES**

- 70.603 Execution and filing of claims.
- 70.604 Record of inventory to support claims.
- 70.605 Claims relating to imported, domestic and Virgin Island liquors.
- 70.606 Claimant to furnish proof.
- 70.607 Supporting evidence.
- 70.608 Action on claims.

**DESTRUCTION OF LIQUORS**

- 70.609 Supervision.

**Subpart H—Rules, Regulations and Forms**

- 70.701 Rules and regulations.
- 70.702 Forms and instructions.

**Subpart I—Disclosure**

- 70.801 Publicity of information.
- 70.802 Rules for disclosure of certain specified matters.
- 70.803 Requests or demands for disclosure in testimony and in related matters.

**AUTHORITY:** 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514.

6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656-6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

SOURCE: T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, unless otherwise noted.

**Subpart A—Scope**

**§ 70.1 General.**

(a) The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for:

(1) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers.

(2) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

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

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

(b) The regulations in Subpart F of this part relate to the limitations imposed by 26 U.S.C. 6423, on the refund or credit of tax paid or collected in respect to any article of a kind subject to a tax imposed by Part I, Subchapter A of Chapter 51, I.R.C., or by any corresponding provision of prior internal revenue laws.

(c) The regulations in Subpart G of this part implement 26 U.S.C. 5064, which permits payments to be made by

the United States for amounts equal to the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer, previously withdrawn, that were lost, made unmarketable, or condemned by a duly authorized official as a result of disaster, vandalism, or malicious mischief. This subpart applies to disasters or other specified causes of loss, occurring on or after February 1, 1979. This subpart does not apply to distilled spirits, wines, and beer manufactured in Puerto Rico and brought into the United States.

[T.D. ATF-376, 61 FR 31031, June 19, 1996]

### § 70.2 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950.

[T.D. ATF-376, 61 FR 31031, June 19, 1996]

## Subpart B—Definitions

### § 70.11 Meaning of terms.

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

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

**Bureau.** The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC 20226.

**CFR.** The Code of Federal Regulations.

**Chief, Tax Processing Center.** The ATF officer principally responsible for administering regulations in this part concerning special (occupational) tax, and also responsible for filing tax liens and issuing third-party levies, and for disbursing money due to taxpayers under the provisions of 26 U.S.C. enforced and administered by the Bureau.

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

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the delegation order.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

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

**Enforced collection.** Collection of taxes when a taxpayer neglects or refuses to pay voluntarily. Includes such administrative measures as liens and levies.

**Levy.** The taking of property by seizure and sale or by collection of money due to the debtor, such as wages.

**Lien.** A charge upon real or personal property for the satisfaction of some debt or performance of an obligation.

**Person.** An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary,

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

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

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

*Secretary.* The Secretary of the Treasury or designated delegate.

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

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

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

*U.S.C.* The United States Code.

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

[T.D. ATF-48, 43 FR 13535, Mar. 31, 1978; 44 FR 55841, Sept. 28, 1979, as amended by T.D. ATF-77, 46 FR 3002, Jan. 13, 1981; T.D. ATF-301, 55 FR 47608, Nov. 14, 1990; T.D. ATF-331, 57 FR 40327, Sept. 3, 1992; T.D. ATF-378, 61 FR 29955, June 13, 1996]

## Subpart C—Discovery of Liability and Enforcement of Laws

### EXAMINATION AND INSPECTION

#### §70.21 Canvass of regions for taxable persons and objects.

Each regional director (compliance) shall, to the extent deemed practicable, cause officers or employees under the regional director's supervision and control to proceed, from time to time, through the region and

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

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

#### §70.22 Examination of books and witnesses.

(a) *In general.* For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or in equity of any transferee or fiduciary of any person in respect of any such tax, or collecting any such liability, any authorized officer or employee of the Bureau may examine any books, papers, records or other data which may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(b) *Summonses.* For the purposes described in paragraph (a) of this section the officers and employees of the Bureau designated in paragraph (c) of this section are authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any person deemed proper, to appear before a designated officer or employee of the Bureau at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. The officers and employees designated in paragraph (c) of this section may designate any other employee of the Bureau as the individual before whom a person summoned

pursuant to 26 U.S.C. 7602 shall appear. Any such other employee, when so designated in a summons, is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons. The authority to issue a summons may not be redelegated. See § 70.302 of this part for rules concerning payments to certain persons who are summoned to give information to the Bureau under 26 U.S.C. 7602 and this section.

(c) *Persons who may issue summonses.* The following officers and employees of the Bureau are authorized to issue summonses pursuant to 26 U.S.C. 7602:

- (1) Regional director (compliance), and
- (2) Office of Inspection: Assistant Director, Deputy Assistant Director, and regional inspectors.

(Aug. 16, 1954, Chapter 736, 68A Stat. 901; (26 U.S.C. 7602))

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-42, 42 FR 8367, Feb. 10, 1977; T.D. ATF-301, 55 FR 47608, Nov. 14, 1990; T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

#### § 70.23 Service of summonses.

(a) *In general.* A summons issued under 26 U.S.C. 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) *Persons who may serve summonses.* The following officers and employees of the Bureau are authorized to serve a summons issued under 26 U.S.C. 7602: ~~X~~

- (1) The officers and employees designated in paragraph (c) of § 70.22; and
- (2) Chiefs, field operations, area supervisors, inspectors, regional audit managers and auditors, Compliance Operations; special agents, Internal Affairs; and all special agents, Law Enforcement. The authority to serve a summons may be redelegated only by

the Assistant Director, Office of Inspection, and regional directors (compliance), to officers and employees under their jurisdiction.

(68A Stat. 902, as amended (26 U.S.C. 7603); 26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744), 27 U.S.C. 205, 22 U.S.C. 2778, 26 U.S.C. 7602, and 5 U.S.C. 301)

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; T.D. ATF-201, 50 FR 12533, Mar. 29, 1985; T.D. ATF-249, 52 FR 5961, Feb. 27, 1987; T.D. ATF-301, 55 FR 47608, Nov. 14, 1990]

#### § 70.24 Enforcement of summonses.

(a) *In general.* Whenever any person summoned under 26 U.S.C. 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. magistrate for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(b) *Persons who may apply for an attachment.* The officers and employees of the Bureau designated in paragraph (c) of § 70.22 are authorized to apply for an attachment as provided in paragraph (a) of this section. The authority to apply for an attachment for the enforcement of a summons may not be redelegated.

(68A Stat. 902, as amended (26 U.S.C. 7604))

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973; 38 FR 33767, Dec. 7, 1973]

#### § 70.25 Special procedures for third-party summonses.

(a) When the Bureau summons the records of persons defined by 26 U.S.C. 7609(a)(3) as "third-party record-keepers", the person about whom information is being gathered must be notified in advance, except when:

- (1) The summons is served on the person about whom information is being gathered, or any officer or employee of such person, or
- (2) The summons is served to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

(3) The summons does not identify the person with respect to whose liability the summons is issued (a "John Doe" summons issued under the provisions of 26 U.S.C. 7609(f)), or

(4) The Director petitions, and the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying or production of records.

(b) Within 3 days of the day on which the summons was served, the notice required by paragraph (a) of this section shall be served upon the person entitled to notice, or mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, left with the person summoned. No examination of any records required to be produced under a summons as to which notice is required under paragraph (a) of this section may be made:

(1) Before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in this paragraph, or

(2) Where a proceeding under paragraph (c) of this section was begun within the 20-day period referred to in that paragraph and the requirements of paragraph (c) of this section have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash.

(c) If the person about whom information is being gathered has been given notice, that person has the right to institute, until and including the 20th day following the day such notice was served on or mailed, by certified or registered mail, to such notified person, a proceeding to quash the summons. During the time the validity of the summons is being litigated, the statutes of limitation are suspended under 26 U.S.C. 7609(e). Title 26 U.S.C. 7609 does not restrict the authority under 26 U.S.C. 7602 (or under any other provision of law) to examine records

and witnesses without serving a summons and without giving notice of an examination.

(26 U.S.C. 7609)

[T.D. ATF-301, 55 FR 47608, Nov. 14, 1990]

### § 70.26 Third-party recordkeepers.

(a) *Definitions*—(1) *Accountant*. A person is an "accountant" under 26 U.S.C. 7609(a)(3)(F) for purposes of determining whether that person is a third-party recordkeeper if the person is registered, licensed, or certified under State law as an accountant.

(2) *Attorney*. A person is an "attorney" under 26 U.S.C. 7609(a)(3)(E) for purposes of determining whether that person is a third-party recordkeeper if the person is admitted to the bar of a State or the District of Columbia.

(3) *Credit cards*—(i) *Person extending credit through credit cards*. The term "person extending credit through credit cards or similar devices" under 26 U.S.C. 7609(a)(3)(C) generally includes any person who issues a credit card. It does not include a seller of goods or services that honors credit cards issued by other parties but does not extend credit on the basis of credit cards or similar devices issued by itself.

(ii) [Reserved]

(iii) *Similar devices to credit cards*. An object is a "similar device" to a credit card under 26 U.S.C. 7609(a)(3)(C) only if it is physical in nature, such as a coupon book, a charge plate, or a letter of credit. Thus, a person who extends credit by requiring credit customers to sign sales slips without requiring use of physical objects issued by that person is not a third-party recordkeeper under 26 U.S.C. 7609(a)(3)(C).

(b) *When third-party recordkeeper status arises*. A person is a "third-party recordkeeper" with respect to a given set of records only if the person made or kept the records in the person's capacity as a third-party recordkeeper. Thus, for instance, an accountant is not a third-party recordkeeper (by reason of being an accountant) with respect to the accountant's records of a sale of property by the accountant to another person. Similarly, a credit card issuer is not a third-party recordkeeper (by reason of being a person extending credit through the use of credit

cards or similar devices) with respect to:

(1) Records relating to noncredit card transactions, such as a cash sale by the issuer to a holder of the issuer's credit card; or

(2) Records relating to transactions involving the use of another issuer's credit card.

(c) *Duty of third-party recordkeeper*—

(1) *In General.* Upon receipt of a summons, the third-party recordkeeper ("recordkeeper") must begin to assemble the summoned records. The recordkeeper must be prepared to produce the summoned records on the date which the summons states the records are to be examined regardless of the institution or anticipated institution of a proceeding to quash or the recordkeeper's intervention (as allowed under 26 U.S.C. 7609(a)(3)(C)) into a proceeding to quash.

(2) *Disclosing recordkeepers not liable*—

(i) *In general.* A recordkeeper, or an agent or employee thereof, who makes a disclosure of records as required by this section, in good faith reliance on the "Certificate of the Secretary" (as defined in paragraph (c)(2)(ii) of this section) or an order of a court requiring production of records, will not be liable for such disclosure to any customer, or to any party with respect to whose tax liability the summons was issued, or to any other person.

(ii) *Certificate of the Secretary.* The Director may issue to the recordkeeper a "Certificate of the Secretary" stating both:

(A) That the 20-day period, within which a notified person may institute a proceeding to quash the summons has expired; and

(B) That no proceeding has been properly instituted within that period. The Director may also issue a "Certificate of the Secretary" to the recordkeeper if the taxpayer, with respect to whose tax liability the summons was issued, expressly consents to the examination of the records summoned.

(3) *Reimbursement of costs.* Recordkeepers may be entitled to reimbursement of their costs of assembling and preparing to produce summoned records, to the extent allowed by 26 U.S.C. 7610, even if the summons ultimately is not enforced.

(26 U.S.C. 7609)

[T.D. ATF-301, 55 FR 47608, Nov. 14, 1990]

**§ 70.27 Right to intervene; right to institute a proceeding to quash.**

(a) *Notified person.* Under 26 U.S.C. 7609(a), the Bureau must give a notice of summons to any person, other than the person summoned, who is identified in the description of the books and records contained in the summons in order that such person may contest the right of the Bureau to examine the summoned records by instituting a proceeding to quash the summons. Thus, if the Bureau issues a summons to a bank requesting checking account records of more than one person all of whom are identified in the description of the records contained in the summons, then all such persons are notified persons entitled to notice under 26 U.S.C. 7609(a). Therefore, if the Bureau requests the records of a joint bank account of A and B, both of whom are named in the summons, then both A and B are notified persons entitled to notice under 26 U.S.C. 7609(a).

(b) *Right to institute a proceeding to quash*—(1) *In general.* Title 26 U.S.C. 7609(b) grants a notified person the right to institute a proceeding to quash the summons in the United States district court for the district within which the person summoned resides or is found. Jurisdiction of the court is based on 26 U.S.C. 7609(b). The act of filing a petition in district court does not in and of itself institute a proceeding to quash under 26 U.S.C. 7609(b)(2). Rather, the filing of the petition must be coupled with notice as required by 26 U.S.C. 7609(b)(2)(B).

(2) *Elements of institution of a proceeding to quash.* In order to institute a proceeding to quash a summons, the notified person (or the notified person's agent, nominee, or other person acting under the direction or control of the notified person) must, not later than the 20th day following the day the notice of the summons was served on or mailed to such notified person:

(i) File a petition to quash in the name of the notified person in a district court having jurisdiction.

(ii) Notify the Bureau by sending a copy of that petition by registered or certified mail to the Bureau employee

and office designated to receive the copy in the notice of summons that was given to the notified person, and

(iii) Notify the recordkeeper by sending to that recordkeeper by registered or certified mail a copy of the petition.

Failure to give timely notice to either the summoned party or the Bureau in the manner described in this paragraph means that the notified person has failed to institute a proceeding to quash and the district court has no jurisdiction to hear the proceeding. Thus, for example, if the notified person mails a copy of the petition to the summoned person but not to the designated Bureau employee and office, the notified person has failed to institute a proceeding to quash. Similarly, if the notified person mails a copy of such petition to the summoned person, but instead of sending a copy of the petition by registered or certified mail to the designated employee and office, the notified person gives the designated employee and office the petition by some other means, the notified person has failed to institute a proceeding to quash.

(3) *Failure to institute a proceeding to quash.* If the notified person fails to institute a proceeding to quash within 20 days following the day the notice was served on or mailed to such notified person, the Bureau may examine the summoned records following the 23rd day after notice of the summons was served on or mailed to the notified person (see 26 U.S.C. 7609(d)(1)).

(c) *Presumption no notice has been mailed.* Title 26 U.S.C. 7609(b)(2)(B) permits a notified person to institute a proceeding to quash by filing a petition in district court and notifying both the Bureau and the summoned person. Unless the notified person has notified both the Bureau and the summoned person in the appropriate manner, the notified person has failed to institute a proceeding to quash. If the copy of the petition has not been delivered to the summoned person or the person and office designated to receive the notice on behalf of the Bureau within 3 days from the close of the 20-day period allowed to institute a proceeding to quash, it is presumed that the notification has not been timely mailed.

(26 U.S.C. 7609)

[T.D. ATF-301, 55 FR 47609, Nov. 14, 1990]

#### § 70.28 Summonses excepted from 26 U.S.C. 7609 procedures.

(a) *In aid of the collection of certain liabilities—(1) In general.* Title 26 U.S.C. 7609(c)(2)(B) contains an exception to the general notice requirement when a summons is issued to a third-party recordkeeper. That section excepts summonses issued in aid of the collection of the liability of any person against whom an assessment has been made or judgment rendered or the liability at law or in equity of any transferee of such a person.

(2) *Examples.* Examples of summonses referred to in paragraph (a)(1) of this section are:

(i) Summonses issued to determine the amount held in a bank in the name of a person against whom an assessment has been made or judgment rendered;

(ii) Summonses issued to enforce transferee liability for a tax which has been assessed.

(b) *Numbered account (or similar arrangement).* Under 26 U.S.C. 7609(c)(2), a summons issued solely to determine the identity of a person having a numbered account (or similar arrangement) with a bank or other institution is excepted from the requirements of 26 U.S.C. 7609. A "numbered account (or similar arrangement)" under 26 U.S.C. 7609(c)(2) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name, or other device not involving the disclosure of the person's identity. A "person having a numbered account (or similar arrangement)" includes the person who opened the account and any person authorized to use the account or to receive records or statements concerning it.

(26 U.S.C. 7609)

[T.D. ATF-301, 55 FR 47610, Nov. 14, 1990]

#### § 70.29 Suspension of statutes of limitations.

(a) *Suspension while a proceeding under 26 U.S.C. 7609(b) is pending.* Under 26 U.S.C. 7609(e)(1), the statutes of limitations of 26 U.S.C. 6501 and 6531 are



suspended if a notified person with respect to whose liability a summons is issued, or the notified person's agent, nominee, or other person acting under the direction or control of the notified person, takes any action as provided in 26 U.S.C. 7609(b).

(1) *Agent, nominee, etc.* A person is a notified person's agent, nominee, or other person acting under the direction or control of a notified person for purposes of 26 U.S.C. 7609(e) if the person with respect to whose liability the summons is issued has the ability in fact or at law to cause the agent, etc., to take the actions permitted under 26 U.S.C. 7609(b). Thus, in the case of a corporation, direction or control by the notified person may exist even though less than 50 percent of the voting power of the corporation is held by the notified person.

(2) *Period during which a proceeding, etc., is pending.* Under 26 U.S.C. 7609(e), the statute of limitations shall be suspended for the period during which a proceeding and any appeals regarding the enforcement of such summons is pending. This period begins on the date the petition to quash the summons is filed in district court. The period continues until all appeals are disposed of, or until the expiration of the period in which an appeal may be taken or a request for a rehearing may be made. Full compliance, partial compliance, and noncompliance have no effect on the suspension provisions. The periods of limitations which are suspended under 26 U.S.C. 7609(e) are those which apply to the taxable periods to which the summons relates.

(3) *Taking of action as provided in 26 U.S.C. 7609(b).* Title 26 U.S.C. 7609(b) allows intervention by a notified person as a matter of right upon compliance with the Federal Rules of Civil Procedure. The phrase "takes any action as provided in subsection (b)", found in 26 U.S.C. 7609(e), includes any intervention whether or not 26 U.S.C. 7609(b) is specifically mentioned in the order of the court allowing intervention. The phrase also includes the fulfilling of only part of the requirements of 26 U.S.C. 7609(b)(2), relating to the right of a person to institute a proceeding to quash. Thus, for instance, if a notified person notifies a person who has been

summoned by sending a copy of the petition by registered or certified mail but does not mail a copy of that notice to the appropriate person and office under 26 U.S.C. 7609(b)(2)(B), the notified person has taken an action under 26 U.S.C. 7609(e).

(b) *Suspension after 6 months of service of summons.* In the absence of the resolution of the third-party recordkeeper's response to the summons described in 26 U.S.C. 7609(c) or the summoned party's response to a summons described in 26 U.S.C. 7609(f) the running of any period of limitations under 26 U.S.C. 6501 or under 26 U.S.C. 6531 with respect to any person with respect to whose liability the summons is issued (other than a person taking action as provided in 26 U.S.C. 7609(b)) shall be suspended for the period:

(1) Beginning on the date which is 6 months after the service of such summons, and

(2) Ending with the final resolution of such response.

(26 U.S.C. 7609)

[T.D. ATF-301, 55 FR 47610, Nov. 14, 1990]

### § 70.30 Time and place of examination.

(a) *Time and place.* The time and place of examination pursuant to the provisions of 26 U.S.C. 7602 shall be such time and place as may be fixed by an officer or employee of the Bureau and as are reasonable under the circumstances. The date fixed for appearance before an officer or employee of the Bureau shall not be less than 10 days from the date of the summons.

(b) *Restrictions on examination of taxpayer.* No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue or Bureau officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(68A Stat. 902, as amended (26 U.S.C. 7605))

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

**§ 70.31 Entry of premises for examination of taxable objects.**

(a) *General.* Any officer of the Bureau may, in the performance of his duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

(b) *Distilled spirits plants.* Any officer of the Bureau may, at all times, as well by night as by day, enter any plant or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any Bureau officer, having demanded admittance, and having declared his name and office, is not admitted to such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(c) *Authority to break up grounds.* Any officer of the Bureau, and any person acting in his aid, may break up the ground on any part of a distilled spirits plant, or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to determine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(68A Stat. 903, 72 Stat. 1357 (26 U.S.C. 7606, 5203))

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

**§ 70.32 Examination of records and objects.**

Any officer of the Bureau may enter, during business hours, the premises of any regulated establishment for the purpose of inspecting and examining any records, articles, or other objects required to be kept by such establishment under 18 U.S.C. chapter 40 or 44, or provisions of 26 U.S.C. enforced and administered by the Bureau, or regulations issued pursuant thereto.

(68A Stat. 715, as amended, 903, 72 Stat. 1348, 1361, 1373, 1381, 1390, 1391, 1395, 82 Stat. 231, as amended, 84 Stat. 955; (26 U.S.C. 5741, 7606, 5146, 5207, 5275, 5367, 5415, 5504, 5555, 18 U.S.C. 923, 843))

[T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

**§ 70.33 Authority of enforcement officers of the Bureau.**

Any special agent or other officer of the Bureau by whatever term designated, whom the Director or a special agent in charge charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws administered and enforced by the Bureau pertaining to commodities subject to regulation by the Bureau, the enforcement of which such officers are responsible, may perform the following functions:

(a) Carry firearms;

(b) Execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(c) In respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(d) In respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

IMFOLT 30199512P01 IMF TAX MODULE  
56277-568-30229-7

NM CTRL: PAGE 01  
SP-SSN UP-CYC:50

12/14  
DE

STATUS DATE:  
NEXT CSED: ASSESSED BAL: .00 SETTLMNT DATE: LIEN :  
LAST CSED: TOT INTEREST: .00 INTEREST DATE:12211998 BWI :  
FIRST CSED: INT ASSESSED: .00 MATH INCREASE: BANC :0  
ASED: INT PAID: .00 HISTORIC DO :56 CC81 :0  
RSED: FTP TOTAL: .00 GOVERNING DO :56 CC85 :0  
FREEZE: -Z FTP ASSESSED: .00 AIMS-CD :0 TC914:2  
CURRENT MF STATUS:00 FSC: 2 TOT EXEMPTIONS: 00 TDA COPYS : CAF :

INDICATORS: ARDI :0  
DDRC :00

EFT-IND: 0 RTN: ACCT CD: BANK ACCT NUM:  
TC DATE AMOUNT CYCLE DLN VARIABLE DATA  
425 11/03/1996 .00 1996/46 56277/308/2000-6 AIMS-SRC-CD:24 PROJ:037  
AIMS-ORG-CD:1113  
421 01/23/1997 .00 1997/05 56277/423/3000-4-7  
914 01/23/1997 .00 1997/05 56277/423/3000-4-7 AGENT-ID: 01149900  
TC-914 06/17/1997 .00 1997/26 56277/568/30229-7 AGENT-ID: 56011499

56/2/77/568 | 302/29-7 DLN  
406  
168

PAGE 001 OF 001 >IMFPG 001

AMDISA MFT>30 TX-PRD>199512  
PRIMARY-NAME>NO NAME FOUND  
ASED> / /  
SOURCE-CD>24 REFUSAL TO FILE TDI

NM-CTRL:  
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OPNG-CRTN/TRANSFR-DT>11/03/1996  
EXAM-START-CYC>199611

ACTY-CD>537

SUSP-CD>2

TC 424 RECORD  
STATUTE-XTRCTN-IND>0 PARTIAL-AGRMT-IND>0 TC-300-IND>0  
DO/SC>56 AIMS-FRZ-CD>K  
CURRENT-STATUS-CD/DATE PRIOR-STATUS-CD/DATE  
32 GENERAL FRAUD 06/23/1998 41 PSP SUSPENSE 06/12/1998  
1113<ORG-CD 0000<PR-ORG-CD UPDT-CD>E PR-UPDT-CD>E  
PROJ-CD>095 PUSH-CD>037 RET/5546/LABELS NOT REQ PICE-CD>0  
XREF-DLN>56277/308/2000-6  
RET-PSTNG-YR>1996

NM-LN-YR>0000 . PRIMARY-NM-LN> NAME-ADDRESS SECTION NOT PRESENT  
CONTINUATION-OF-PRIMARY-NAME>  
STREET>

CITY> STATE> ZIP>

\*THIS IS THE ONLY TAX-PERIOD AVAILABLE ON AIMS FOR THIS TIN\*

IMFOLT 30199412P01 IMF TAX MODULE  
56277-568-30228-7

NM CTRL:WATT PAGE 01  
SP-SSN UP-CYC:50  
STATUS DATE:10071996

NEXT CSED: ASSESSED BAL: 3,000.00-SETTLMNT DATE: LIEN :  
LAST CSED: TOT INTEREST: .00 INTEREST DATE:12211998 BWI :  
FIRST CSED: INT ASSESSED: .00 MATH INCREASE: BANC :0  
ASED: INT PAID: .00 HISTORIC DO :56 CC81 :0  
RSED: FTP TOTAL: .00 GOVERNING DO :56 CC85 :0  
FREEZE: -Z FTP ASSESSED: .00 AIMS-CD :0 TC914:2  
CURRENT MF STATUS:00 FSC: 2 TOT EXEMPTIONS: 00 TDA COPYS :

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IMF for 19 \_\_\_\_\_

Date Effective	Trans. Code	Description	Debit	Credit	Cycle Date	Julian Date	Docum. Code	Blocking Number	Series	Notes

SFR

IMF - 9612

Effective date	T.C.	TC Description	IMF credit	IMF debit	cycle date week	Julian date	document code	description	Blocking series #	description	series #
10-21-1996	150	Master file entily creat			- - -						
09-02-1996	425	reversed TC 424			37	245	77		200	non-taxable 1040	00
10-27-1996	570				42	270	10		005	EMPF	18
10-15-1996	420	Examination indicator			43	288	77		000	EMPF	00
04-15-1997	806			3599.-	12	477	47	BMF penalties	100		17
04-06-1998	300				12	477	47	BMF penalties	100		17
07-01-1997	971				14	490	77		028		98
07-01-1997	977				14	490	77		028		98
08-24-1998	160	late filing			32	616	47	BMF penalties	000	EMPF	51
08-24-1998	300		6855.-		32	616	47	BMF penalties	000	EMPF	51
08-24-1998	421				32	616	47	BMF penalties	000	EMPF	51
08-24-1998	336		470.12		32	616	47	BMF penalties	000	EMPF	51

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5 Cycle—The calendar week of the year in which the FTD was numbered, filmed, and processed in the Service Center (2 digits)

6 Serial Number—The sequentially assigned serial number for that week's processing. Serves as the index number on microfilm (6 digits).

(d) DOCUMENT IDENTIFICATION NUMBER (DIN)—A 9-digit number, serving the same purpose that a 14-digit document locator number serves, stamped onto edited match lists, payee notices responses, and corrected reject records which are to be used as DDE-input source documents for Payee TIN Perfection Processing File (PTPF) updating, a process within the IMF Delinquency and Underreporter Program of IRP.

1 Input source—(1 digit)

a A value of 1 or 2 identifies a match list (or match list reject record) which has not required microfilm research.

b A value of 3 or 4 indicates that it has undergone microfilm research.

c A value of 5 identifies a payee notice (or payee notice reject record).

d A value of 6 identifies a payer verification notice.

e A value of 7 identifies a payer correction transcript (or payer correction reject record).

2 Julian date—001 through 366. (3 digits)

3 Block—000 through 999. (3 digits)

4 Serial number—00 through 99. (2 digits)

3(27)(68)4.2 (1-1-90)

Tax Class

(1) Tax Class is the third digit of the DLN and identifies the type of tax each transaction involves. Tax Class 9 does not identify a particular type of tax but permits various types of BMF taxes to be blocked together under certain conditions. Tax Class 0 identifies EPMF and IRAF processed documents and is not a true tax class. Tax Class 5 is used to control IRP documents on the NMF control system and Backup Withholding FTDs (F941). Tax Class 6 identifies NMF controlled documents and is not a true tax class. Tax Class 6 is also used to control (F943) deposit activity.

(a) BMF Tax Class	MFT	Type of Tax
1	01	Withholding and FICA (Form 941)
1	04	Withholding and FICA (Form 942)
1	11	Agriculture FICA (Form 943)
1	12	Income Tax Paid at Source (Form 1042)
1	88	W-3/W-3G (used in tandem with 941-type returns)
2	00	Various
2	05	Fiduciary Income (Form 1041)
2	06	Partnership Information Only (Form 1065)
3	02	Corporation Income (Form 1120)
3	13	Civil Penalties
3	33	Exempt Cooperative Association Income Tax Return (Form 990C)
3	34	Exempt Organization Business Income Tax Return (Form 990T)
3	07	Real Estate Mortgage Investment Conduit Income Tax Return (Form 1066)
4	36	Trust Accumulation of Quantifiable Anns. (Form 1041A)
4	37	Soft Interest Trust Information Return (Form 5227)

(a) BMF Tax Class	MFT	Type of Tax
4	44	Return of Private Foundation (Form 990PF)
4	50	Return of Certain Excise Taxes on Churches and Other Persons under Chac. 41 and 42 of the IRC (Form 4720)
4	03	Excise (Form 720)
4	60	Heavy Vehicle Use Tax Return (Form 2290)
4	63	Special Tax Return and Application for Registry—Wagering (Form 11-Q)
4	64	Tax on Wagering (Form 730)
4	67	Return of Organization Exempt from Income Tax (Form 990)
		Short Form—Return of Organization Exempt from Income Tax (Form 990EZ)
5	51	U.S. Gift Tax Return (Form 706, 709A)
5	52	U.S. Estate Tax Return (Form 706 & 706NA)
5	14	Payer Master File
7	09	Railway Retirement (Form CT-1)
8	10	FUTA (Form 940)
9	00, 01, 02, 03, 04, 05, 06, 07, 09, 10, 11, 12, 33, 34, 36, 37, 44, 50, 57	All types of BMF tax only (Tax Class 9 refers only to delinquent accounts & returns area, entry changes and transcripts)
9	14	Payer Master File
(b) IMF Tax Class	MFT	Type of Tax
2	30	Individual Income (Form 1040, 1040A, 1040EZ & 1040NR) Self Employment—FICA (Form 1040SS Doc. Code 26)
2	30	Self Employment—FICA (Form 1040PR Doc. Code 27)
2	30	Withholding and FICA (Form 1040C—Doc. Code 61)
2	55	Civil Penalties
2	56	Payer Master File
(c) EPMF Tax Class	MFT	Type of Tax
0	74	Notice of Action for Entry on Master File (Form 3177)
0	75	Approval of Master or Prototype Plan for Self-Employed Individuals (Form 3672)
0	75	Approval of Master or Prototype Defined Benefit Plan for Self-Employed Individuals (Form 3672-A)
0	75	Sponsor Application Approval of Master or Prototype Plan (Form 4461)
0	75	Application For Approval of Master or Prototype Defined Benefit Plan (Form 4481-A)
0	74	Application for Approval of Bond Purchase Plan (Form 4578)
0	74	Application for Determination of Defined Benefit Plan (Form 5300)
0	74	Application for Determination of Defined Contribution Plan (Form 5301)
0	74	Application for Determination of Collectively Bargained Plan (Form 5303)
0	75	Application for Determination of Individual Retirement Account (Form 5304)
0	75	Application for Determination of Prototype Individual Retirement Account (Form 5306)
0	75	Approval of Prototype Simplified Employee Pension-SEP (Form 5308-SEP)
0	74	Application for Determination of Employee Stock Ownership Plan (Form 5309)

(c) EPMF Tax Class	MFT	Type of Tax
0	74	Short Form Application for Determination for Employee Benefit Plan (Form 5307)
0	74	Application Determination upon Termination (Form 5310)
0	74	Return of initial excise taxes related to Pension and Profit-sharing Plans (Form 5330)
0	74	Annual Return/Report of Employee Benefit Plan, with 100 or more participants (Form 5500)
0	74	Form 5500 series, Schedule B
0	74	Annual Return/Report for Employee Benefit Plan (with fewer than 100 participants, none of whom is an owner-employee) (Form 5500-C)
0	74	Annual Return/Report for Employee Pension Benefit Plan (with fewer than 100 participants and at least one owner-employee) (Form 5500-K)
0	74	Registration Statement of Employee Benefit Plan (Form 5500-R)
0	74	Annual Return of One-Participant (owners and their spouses) Pension Benefit Plan (Form 5500-EZ)
(d) IRAF Tax Class	MFT	Type of Tax
0	29	Return for individual Retirement Arrangement Taxes (Form 5329)

(2) EPMF Tax Class 0 applies to the new EPMF. EPMF Tax Class 6 applies to the old EPMF.

3(27)(68)4.3 (1-1-90)  
Document Codes

(1) The Document Code is in the 4th and 5th digits of the DLN and identifies the type of document being processed. The following are the forms processed and their related Document Code and applicable Tax Class.

(a) Federal Revenue Forms, 11 Series.

Form	Title	Doc. Code	Tax Class
11C	Special Tax Return and Application for Registry—Wagering	03	4

(b) Federal Revenue Forms, 500 Series.

Form	Title	Doc. Code	Tax Class
514B	Tax Transfer Schedule	51	1,2,3,4,5,6,7,8

(c) Federal Revenue Forms, 700 Series.

Form	Title	Doc. Code	Tax Class
706	U.S. Estate Tax Return	06	5
706A	U.S. Additional Estate Tax	84	6
706B	Generation Skipping Transfer Tax	85	6
706NA	U.S. Non-resident Alien Estate Tax Return	05	5
709	U.S. Gift Tax Return	09	5
709A	U.S. Short Form Gift Tax Return	08	5
720	Quarterly Federal Excise Tax Return	20	4
730	Tax on Wagering	13	4



(d) Federal Revenue Forms, 800 Series.

Form	Title	Doc. Code	Tax Class
809	Posting Voucher	17, 18	1,2,3,4,5,6,7,8,0
813	Document Register	99	1,2,3,4,5,6,7,8,9
843	Claims	54, 77	1,2,3,4,5,7,8,9,0

(e) Federal Revenue Forms, 900 Series.

Form	Title	Doc. Code	Tax Class
900	Tax Collection Waiver	77	2,5,9
926	Return by a Transferor of Property to a Foreign Corporation, Foreign Trust, or Foreign Partnership	32	6
940	Employer's Annual Federal Unemployment Tax Return	40	8
940	Mag. Tape. Employer's Annual Federal Unemployment Tax Return	39	8
940PR	Employer's Annual Federal Unemployment Tax Return, Puerto Rico	40	8
941	Employer's Quarterly Federal Tax Return	41	1
941	Mag. Tape. Employer's Quarterly Federal Tax Return	35	1
941E	Mag. Tape. Employer's Quarterly Federal Tax Return	36	1
941E	Quarterly Return of Withheld Income Tax—Non-FICA	45	1
941M	Employer's Monthly Federal Tax Return	41	1
941NMI	Employer's Tax Return of Northern Marianas Is	41	6
941PR	Employer's Quarterly Federal Tax Return, Puerto Rico	41	1
941SS	Employer's Quarterly Federal Tax Return, Virgin Islands, Guam, American Samoa	41	1
942	Employer's Quarterly Federal Tax Return for Household Employees	42	1
942PR	Employer's Quarterly Federal Tax Return, Household Employees, Puerto Rico	42	1
943	Employer's Annual Tax Return for Agricultural Employees	43	1
943PR	Employer's Annual Tax Return for Agricultural Employees, Puerto Rico	43	1
964/966	Corporate Dissolution Indicator	78	9
990	Return of Organization Exempt from Income Tax	90	4
990BL	Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons	88	6
990C	Exempt Cooperative Association Income Tax Return	92	3
990PF	Return of Private Foundation Exempt from Income Tax	91	4
990T	Exempt Organization Business Income Tax Return	93	3

1 272

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

(f) Federal Revenue Forms, 1000 Series.

Form	Title	Doc. Code	Tax Class
1040	U.S. Individual Income Tax Return (Other than Full Paid) (Full Paid)	11,12,21,22	2
1040A	U.S. Individual Income Tax Return Other than Full Paid	09	2
1040C	U.S. Departing Alien Income Tax Return	10	2
1040ES	U.S. Declaration of Estimated Income Tax for Individuals	61	2
1040EZ	U.S. Individual Income Tax Return Other than Full Paid	20	2
1040NR PSC only	U.S. Non-resident Alien Income Tax Return Non-effectively Connected Income	07	2
1040PR PSC Only	U.S. Self Employment Tax Return Puerto Rico	08	2
1040SS PSC Only	U.S. Self Employment Tax Return, Virgin Islands, Guam, American Samoa (PSC only)	72	2
1040X	Amended U.S. Individual Income Tax Return With remittance or original return needed	73	2
1040SS NMI	U.S. Self Employment Tax Return, Northern Marianas Islands	27	2
1041	U.S. Fiduciary Income Tax Return (For estates and trusts)	25	2
1041	U.S. Fiduciary Income Tax Return Magnetic Tape (Currently not used)	54	2
1041A	Trust Accumulation of Charitable etc., Amounts	11	4
1041ES	Payment Voucher, Estimated Tax	17,19	2
1041-K1	Beneficiary's Share of Income, Credits, Deductions, Etc. (See Form 5227)	66	5
1041PF	U.S. Fiduciary Tax Return (Short Form)	46	2
1041S	U.S. Annual Return of Income Tax to be Paid at Source	25	1
1042	Income Subject to Withholding Under Chapter 3, IRC	66	6
1042S	U.S. Partnership Return of Income	65	2
1065	Partner's Share of Income, Credits, Deductions, Etc.	65	5
1065-K1	U.S. Real Estate Mortgage Investment Conduit Income Tax Return	60	3, 6

Form	Title	Doc. Code	Tax Class
1096	Annual Summary and Transmittal of U.S. Information Returns	69	5
1098	Mortgage Interest	81	5
1099-A	Foreclosures and Abandonments	80	5
1099-B	Proceeds from Brokers and Barter Exchange Transactions	79	5
1099-DIV	Dividends and Distributions	91	5
1099-G	Certain Government Payments	86	5
1099-INT	Interest Income	92	5
1099-MISC	Miscellaneous Income	95	5
1099-OID	Original Issue Discount	96	5
1099-PATR	Taxable Distributions Received from Cooperatives	97	5
1099-R	Lump Sum Distributions from Profit Sharing and Retirement Plans	98	5
1099-S	Proceeds from Real Estate Transactions	75	5
1099-RRB	Railroad Retirement Board Benefits Payment	82	5
1099-SSA	Social Security Benefits Payment	82	5
1120	U.S. Corporation Income Tax Return	10	3
	Special—Consolidated, Personal Holding	11	3
1120-A	U.S. Short Form Corporation Tax Return	09	3
1120DF	U.S. Income Tax Return for Designated Settlement Funds	06	3
1120-DISC	Domestic International Sales Corporation Return	69	6
1120-F	U.S. Income Tax Return of Foreign Corporations Non-Effectively Connected Income	66	3
	Effectively Connected Income	67	3
1120FSC	U.S. Income Tax Return of a Foreign Sales Corporation (PSC only)	69.07	6.3
1120-H	Home Owners Association Income	71	3
1120IC-DISC	Interest Charge Domestic International Sales Corporation Return	69	6
1120S-K1	Shareholders Share of Undistributed Taxable Income, Etc.	67	5
1120-L	U.S. Life Insurance Company Income Tax Return	11	3
1120-M	U.S. Mutual Insurance Company Income Tax Return	11	3
1120-ND	Return for Nuclear Decommissioning Trusts and Certain Related Persons	08	3
1120PC	U.S. Income Property and Casualty Companies	13	3
1120-POL	U.S. Income Tax Return of Political Organizations	20	3
1120REIT	U.S. Income Tax Return for Real Estate Investment Trusts	12	3
1120RIC	U.S. Income Tax Return for Regulated Investment Companies	05	3

Form	Title	Doc. Code	Tax Class
1120-S	U.S. Small Business Corporation Income Tax Return	16	3
1120-X	Amended Corporation Income Tax Return	54	3
	With remittance or original return needed	10	3
1127	Application for Extension of Time for Payment of Tax	77	2
1128	Application for Change of Accounting Period		
1164 PR	Disbursing Center Notification of Undelivered Refund Checks and/or Cancellation	45	1,2,3,4,5,6,7,8
1962	Advance Payment Record	17	1,2,3,4,5,6,7,8

(g) Federal Revenue Forms, 2000 Series.

Form	Title	Doc. Code	Tax Class
2137	Monthly Tax Return-Manufacturers of Cigarette Papers and Tubes	86	6
2158	Credit Transfer Voucher	58	1,2,3,4,5,6,7,8
2287	Dishonored Check Posting Voucher	87	1,2,3,4,5,6,7,8
02287	Advise of Dishonored Check	17	1,2,3,4,5,6,7,8
2290	Heavy Vehicle Use Tax Return	95	4
2350	Application for Extension of Time for Filing U.S. Income Tax Return, Citizen Abroad	77	2,5
2363	Master File Entity Change	63	0,2,6,9
2363A	EO/BMF Entity Voucher	80,81	9
2363B	EPMF Plan Data Change	64	0
2363C	IMF/BMF Master File Entity Change	63	2
2424	Account Adjustment Voucher	24	1,2,3,4,5,6,7,8,0
2438	Regulated Investment Co.-Undistributed Capital Gains Tax Return	86	6
2553	Election by Small Business Corporation	53	9
2617	Prepayment Return-Tobacco Products Taxes	37	6
2650	TDA/TDI Transfer	50	2,6,9
2688	Application for Additional Extension of Time to File U.S. Individual Income Tax Return	77	2
2710	Appeals Division Action and Transmitted Memorandum	47	1,2,3,4,5,6,7,8
2749	Request for 100% Penalty Assessment	77	3,6,9
2758	Application for Extension of Time to File U.S. Fiduciary or Partnership Return, Non-remittance	77	2,9
	With remittance	04	2
		17	2,3,4

(h) Federal Revenue Forms, 3000 Series.

Form	Title	Doc. Code	Tax Class
3177/A/B/C	Notice of Action for Entry on Master File	14,49,77,78	1,2,3,4,5,6,7,8,9,0
3244	Payment Posting Voucher	17,18	1,2,3,4,5,6,7,8,0
3244A	Payment Posting Voucher	18	1,2,3,4,5,6,7,8
3245	Posting Voucher, Refund Check Cancellation or Repayment	45	1,2,3,4,5,6,7,8,0
3249	Notice of Non-Receipt of Tax Return	49	9
3258	Summary Transfer Voucher	58	1,2,3,4,5,6,7,8
3354	Assessment Adjustment Document	54	1,2,3,4,5,8,7,8
3413	Transaction List of Account Transfer-in	51,52 51	1,2,3,4,5,6,7,8 5
3446	Notice of Federal Tax Due	17	2,5,6
3465	Adjustment Request	54	1,2,3,4,5,6,7,8,9,0
3552	Statement of Tax Due on Federal Tax Return (Part 4)	17	1,2,3,4,5,6,7,8
3552	Prompt Assessment Billing Assembly	51	1,2,3,4,5,6,7,8
3672	Approval of Master or Prototype Plan for Self-Employed Individuals	72	0
3672A	Approval of Plan for Self-Employed Individuals	73	0
3731	Unidentified Remittance Voucher	17	1,2,3,4,5,6,7,8,0
3753	Manual Refund Posting Voucher	45	1,2,3,4,5,6,7,8
3809	Miscellaneous Adjustment Voucher	48,58	1,2,3,4,5,6,7,8
3870	Request for Adjustment (Part 1)	54	
	(Part 3)	77	1,2,3,4,5,6,7,8,9
3912	Taxpayer SSN Validation (CP 53 & 54)	31,63	2
3967	Payment Overdue	17	2,5
3967(C)	Notice of Delinquent Tax Account	17	2,5,6

(i) Federal Revenue Forms, 4000 Series.

Form	Title	Doc. Code	Tax Class
4084	Math Error Notice (CP 11)	17,19	2
4085	Math Error Notice (CP 12)	17,19	2
4086	Math Error Notice (CP 13)	17,19	2
4188	Settlement Notice (CP 21,22,210)	17,19	1,2,3,4,5,6,7,8
4188SP	Settlement Notice (CP 910,920)	17,19	1
4338	Transcript or Information Request (Tax Class 9, applies to TC 991 and 993 only)	59	1,2,3,4,5,6,7,8,9
4356A	Notice of Available Frozen Credit	77	2,9
4356SP	Notice of Available Frozen Credit, Puerto Rico	77	2,9
4428	BMF General Purpose CP Form	17,19	1,3,4,5,7,8
4428SP	BMF General Purpose CP Form (CP 802, 812, 822, 856)	17,19	1
4461	Sponsor Application Approval of Master or Prototype Defined Contribution Plan	61	0
4461-A	Application for Approval of Master or Prototype Defined Benefit Plan	62	0

Form	Title	Doc. Code	Tax Class
4466	Corporation Application for Quick Refund of Overpayment of Estimated Tax	45	3
4482	CP Notice Form (CP 51)	17,19	2
4578	Bond Purchase Plan Approval	78	0
4602	Notice of Balance Due (CP 23)	17,19	2
4604	Notice of Settlement under \$1.00 (CP 25)	17,19	2
4626	Computation of Minimum Tax-Corporations and Fiduciaries	10	3
4666-A	Summary of Employment Tax Adjustment Program	40,41,42,43	1,8
4667-A	Adjustment Changes—Federal Unemployment Tax	40	8
4668-A	Employment Tax Adjustment Changes Report	41,42,43	1
4694	Notification Refund Repayment Check not accepted by Bank	45	1,2,3,4,5,6,7,8
4720	Return of Certain Excise Taxes on Charities and Other Persons Under Chap. 41 and 42 of the IRC.	71	4
4732	Special Tax Receipt F11, (CP 244)	17,19	4
4733	Special Tax Receipt File (CP 245)	17,19	4
4768	Application for Extension of Time to File U.S. Estate Tax Return and/or Pay Estate Tax	77	5,8
4779	Statement of Use Tax Due IRS on Highway Motor Vehicles	17,19	4
4789	Currency Transaction Report	89	5
4839	2nd Notice of Delinquent Tax Account	17,19	1,2,3,4,5,6,7,8
4840	3rd Notice of Delinquent Tax Account	17,18,19	1,2,3,4,5,6,7,8
4843	Estimated Tax Penalty for Form 1120	17,19	3
4868	Application for Automatic Extension of Time to File U.S. Individual Income Tax Return	17,77	2,5
4907	TDA Assembly	18	1,2,3,4,5,6,7,8,9,0
4960	IMF, Balance Due, Examination/Unallowable Items (CP 15)	17,19	2
4961	IMF, Overpayment, Examination/Unallowable Items (CP 16)	17,19	2

ⓐ Federal Revenue Forms, 5000 Series.

Form	Title	Doc. Code	Tax Class
5110.32	Prepayment Return-Distilled Spirits Tax	26	6
5110.35	Deferred Payment Return-Distilled Spirits Tax	26	6
5110.39	Rectifiers Return-Prepayment of Taxes (thru 1/1/80)	26	6
5110.60	Rectifiers Return-Deferred Taxes (thru 1/1/80)	26	6
5120.7	Wine Tax Return	25	6

Form	Title	Doc. Code	Tax Class
5120.57	Prepayment Return-Wine Tax	25	6
5130.7	Beer Tax Return		
5210.7	Tax Return-Manufacturer of Tobacco Products	37	6
5227	Split-Interest Trust Information Return	83	4,5
5253	Verification of Spouse's SSN	31	2
5300	Application for Determination of Defined Benefit Plan	53	0
5301	Application for Determination of Defined Contribution Plan	01	0
5303	Application for Determination of Collectively Bargained Plan	03	0
5306	Application for Approval of Prototype Individual Retirement Account	06	0
5306SEP	Application for Approval of Prototype Simplified Employee Pension	60	0
5307	Short Form Application for Determination for Employee Benefit Plan	07	0
5308	Request for Change in Plan/Trust Year	77	0
5309	App. for Determination of Employee Stock Ownership Plan	09	0
5310	App. for Deter. Upon Termination	10	0
5329	Return for Individual Retirement Arrangement Taxes	11,12,21 22,73	0
5330	Return of initial excise taxes related to pension and profit-sharing plans	35	0,6
5344	Examination examined closing record	47	1,2,3,4,5,6,7,8
5351	Exam Non-Examined Closings	47	1,2,3,4,5,6,7,8
5394	Request for Notification and Access—System(s) of Records, Privacy Act of 1974	56	2
5403	Appellate closing record	47	1,2,3,4,5,6,7,8
5465B	Multiple Record of Disclosure	77	2,9
5471	Information Return with Respect to a Foreign Corporation	55	5
5472	Information Return of a Foreign Owned Corporation	53	5
5473	Reportable Acquisitions and Reportable Disposition of Interest in a Foreign Partnership	57	5
5479	Exempt Organization closing record	47	6
5498	Individual Retirement Arrangement Information	28	5
5500 Series	Schedule B	36	0
5500	Annual Return/Report of Employee Benefit Plan	37	0
5500-C	Annual Return/Report of Employee Benefit Plan (with fewer than 100 participants, none of whom is an owner-employee)	38	0

Form	Title	Doc. Code	Tax Class
5500EZ	Annual Return of One-Participant Pension Benefit Plan	31	0
5500-R	Registration Statement of Employee Benefit-Plans	30	0
5558	Extension of Time to File	77	0
5578	School Certification	84	9
5599	E.O. Examined Closing Record-BMF	47	2,3,4,6
5600.5	Remittance Transmittal (Beer, Wine, etc.)	25,26,37	6
5601	Statutory Notice-Underreporter	54	2
5650	EP Examined Closing Record	47	0
5713	International Boycott Report Form	08	6
5734	TIN Penalty	55,65	6
5768	Election to Lobby	77	9
5792	IDRS Manual Refund	45	0,1,2,3,4,5,6,7,8
5811	Examination Return Preparer Case Closing Doc.	47	6
5881	EP Non-Examined Closings	47	0

(k) Federal Revenue Forms 6000 through 8000 Series

Form	Title	Doc. Code	Tax Class
6008	Fee Deposit for Off-Shore Oil	68	6
6009	Quarterly Report of Fees Due	68	6
6069	Return of Initial Excise Tax on Excess Contributions to Back Lung Benefit Trust Under Sec. 4953 & Coal Mine Oper. Wksht. Sec. 192	89	6
6072	Notice of Action for Entry on the Master File	77	0
6195	Employment Tax Return/W-2 Discrepancy (Potential Balance Due) (CP 252)		
6209	CAWR Transaction Document	30	1
6222	CAWR Status Code Posting Document	30	1
6248	Annual Information Return of Windfall Profit Tax	36	5
6385	Employment Tax Return/W-2 Discrepancy (Potential Overpayment) (CP 251)		
6394	DIF Chargeout Request	94	4
6641	Notice of Balance Due Non-Compute (CP 51A) or Adjustment (CP 21/22)	17,19	2
7004	Application for Automatic Extension of Time to File Corporation Income Tax Return	04	3
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	57	5
8038	Private Activity Bond issue	80	1
8109	FTD Coupon Book	97	1,3,4,5,6,7,8,9,C,L,P
8210	Self-Assessed Penalties Return	54	2,3,5



Form	Title	Doc. Code	Tax Class
8271	Investors Reporting of Tax Shelter Request Number	62	5
8278	Computation and Assessment of Miscellaneous Penalties	54	2,3
8279	Election to be Treated as a FSC or Small FSC		
8298	FIRPTA—Foreign Investment Real Property Tax Acct.	88	2
8288A	Seller—Foreign Person of U.S. Real Property Interest	89	2
8300	Report of Cash Payments	64	5
8362	Casino Currency Transaction Report	61	5
8404	Computation of Interest Charge on DISC (with remittance)	27	6
8404	Computation of Interest Charge on DISC (non-remat)	69	6
8453	Used for Electronically Filed Returns (EFR)		
8485	Assessment Adjustment case record	54	1,2,3,4,5,7,8
8487	PMF Entity Change Entry	74	5
8697	Interest Computation Under the Look Back Method for Completed Long-Term Contracts	23	5
8716	Election to Have a Tax Year Other Than a Required Tax Year	53	9
8736	Application for Automatic Extension of Time to File Return for a U.S. Partnership or for Certain Trusts	04	2
8800	Application for Additional Extension of Time to File Return for a U.S. Partnership or for Certain Trusts	77	9
8804	Withholding Agent's Transmittal of Section 1446 Withholding	29	1,6
8805	Partnership Income Subject to Section 1446 Withholding	46	1,5
8813	Estimated Payment for 8804	29	1,6

## (I) Federal Revenue Forms, Alphabetic Series.

Form	Title	Doc. Code	Tax Class
CT-1	Employer's Annual Railroad Retirement Tax Return	11	7
CTR	Currency Transaction Green Card	89	5
	Passport	16	5
	Passport	15	5
RSC-137	Remittance Returned to Taxpayer for Correction	17	1,2,3,4,5,6,7,8
SS-4	Employer's Application for Identification Number	04	0,9
TY-D14	Taxpayer Delinquency Investigation	14	2,6,9
TY-15	Unidentified and Excess Collection Voucher	48	1,2,3,4,5,6,7,8
TY-18	Statement of Payment Due	17	2
TY-26	Statement of Tax Due IRS	17	1,2,3,4,5,6,7,8
TY-D69	Taxpayer Delinquent Account	17,18	6
W-2	Wage and Tax Statement	11,21,12	5

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

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

Document Codes Reference

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

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

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Doc Code	Forms
37	5500,2517
38	5500-C
39	5500-K,940 (mag. tape)
40	940,940PR,4666-A,4667-A
41	941,941M,941PR,941SS,1041(K-1)(IRP use)(for TY81 and earlier),941NMI,4668-A,4666-A
42	942,942PR,W-4,W-4E,4668-A,4666-A
43	943,943PR,4668-A,4666-A
44	1041
45	3245,3753,4694,5792,4466,1164PR
46	941E,1041S,8805
47	2710,5351,5344,5403,5599,5650,5881,5479
48	3809,TY15,8758
49	3177,3177A,3249
50	2550
51	5148,3413,3552
52	3413
53	2553,5300,8716,5472
54	843,3354,3465,3870,1040X,1120X,8210,8485
55	5471,5734
56	5394
57	8027,5473
58	2158,3809,3258,8758
60	5306SEP,1066
61	1040C,4461,8362
62	4461A,8271
63	2363,3912,8279
64	2363B,8300
65	1065,1065-K1(TY82 and later)
66	1120F,1041-K1(TY82 and later), 1042S
67	1120F,1120S-K1(TY82 and later)
68	6009,6008
69	1120DISC,1096,1120FSC,1120IC-DISC
71	1120H,4720
72	1040NR,3672
73	1040NR,5329,3672A
74	CP2020,8487
75	1099S
77	3870,4356A,4356SP,2688,843,2758,2350,900,4868,1127,3177, 3177A,3177B,2749,4907,5147,4768,5558,5768,5308,5466B 3177,3177A,3177B,4578,8800
78	1099-B,8426
79	2363A,1099A,8038
80	1041A,2363A,1098
81	1099-RRB,1099-SSA
82	5227
83	5578,706A
84	706B
85	1099-G
86	2287
87	990BL,FOREIGN W-2G
88	CTR 4789,6069,8288A
89	990
90	990PF,1099DIV
91	990C,1099INT
92	990T
93	6394
94	2290,1099MISC.
95	1099-OID
96	1099-PATR,8109, magnetic tape processing of 1041ES payments
97	1099R
98	813,4338
99	813,4338,1042S(mag. tape)

TRANSCRIPT OF ACCOUNT  
ITP

ASED 08-10-1997

DATE 02-10-97

TRANSCRIPT TYPE INTEL-914  
SORT DLN 56277-423-30002-7

EIN SSN  
PERIOD ENDING 93-12  
TYPE OF TAX INCOME  
FORM FILED 1040  
NAME CONTROL  
0 00

SPOUSE-RRB NO.  
ARDI-0  
FREEZE STATUS CODE -Z  
RSED 08-15-1997 CSED 10-03-2001  
PRIOR NAME CONTROL  
DAR CLOSING CODE 19

FED-EMP 10 BLLC)00  
CONTROL DLN 49211-234-97311-4  
LOCATION CODES  
CURRENT 49-56-01  
TDA (IF DIFFERENT)  
PRINT CONTROL NO 0000022  
ADJ CONTROL NO.

1975-1998 567890123456789012345678  
IRA FILING 000000000000000000000000

EXPLANATION	TRANSACTION DATE	23C DATE OR MEMO ENTRIES	AMOUNT	CYCLE	TRANSACTION DOCUMENT LOCATOR NUMBER	COND CODE	REMARKS
RET FILED-150	08-19-94	10-03-1994	11,728.00	9438	49211-234-97311-4		INSYS)40 ESP)0 HI)0
AGI		49,850.00					
TXI		26,638.00					
PRI SE INC		50,551.00					
PRI SE MED		50,551.00					
S.E. TAX		7,734.00					
EXT FILING-460	04-15-94		.00	9418	49217-112-14968-4		EXTN DATE 08-15-94
SUBS PAYMT-670	04-15-94		4,000.00-	9418	49217-112-14968-4		
PAYT W RET-610	08-19-94		4,000.00-	9435	49211-634-97311-4		
ES PENALTY-170		10-03-94	405.00	9438	49211-234-97311-4		
FTP TX PEN-276		10-03-94	191.84	9438	49211-234-97311-4		
NOTICE INT-196		10-03-94	235.56	9438	49211-234-97311-4		
SUBS PAYMT-670	10-21-94		3,500.00-	9444	49219-294-01647-4		
SUBS PAYMT-670	11-28-94		1,103.86-	9449	49219-333-01850-4		
NOTICE INT-196		12-19-94	23.68	9449	49211-234-97311-4		
FTP TX PEN-276		12-19-94	19.78	9449	49211-234-97311-4		
INTELL ACT-914	01-23-97		.00	9705	56277-423-30002-7		
STATUS HISTORY SECTIONS							
EXT FILING-04	05-16-1994						
1ST NOTICE-21	10-03-1994						
2ND NOTICE-20	11-07-1994						
CONTINUED							

U.S. - U.K. Tax Treaty  
56/2/77/423/300/02/7  
400/023

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Overlay 2 (Rev. 11/87) Department of the Treasury - Internal Revenue Service

**.08 Color Code for DLN**

DLN list year can be determined by the color of the DLN as follows:

Color	DLN List Year	Example
Blue	4 or 9	1964 or 1979
Green	5 or 0	1965 or 1980
Purple	6 or 1	1986 or 1981
Red	7 or 2	1987 or 1982
Black	3 or 8	1988 or 1983

**.09 Returns Processing Adjustment Blocking Series**

Service center processing of taxpayer accounts for adjustment purposes must use the following blocking series to indicate the nature of the adjustment. The return must be associated with the subsequently generated IDRS transaction record unless the blocking series is specified as non-refile DLN.

IMF	Description
000-099	Adjustments with Original Return, unless specified below.
100-149	Reserved.
150-198	Tax adjustments made without the original return, including penalty, interest and/or freeze releases. Non-refile DLN. When using this Blocking Series, no unpostable checks are made for prior Examination or mathematical/clerical errors because the original return has not been secured. Be careful when adjusting accounts using this Blocking Series.
199	Expired balance write-offs (TC 534/535) Non-refile DLN.
200-289	Forms 1040X processed by Returns Analysis Branch.
290-299	FORM 1040X Disaster Claims
300-399	Reserved <i>SEE NEXT Pg. - USING IN IMF FOR EXCISE TA</i>
400-479	Form 4136 claim with Form 843. Non-refile DLN. Preassessment refund only.
480-489	Form 6249 claim with Form 843 Non-refile DLN. Preassessment refund only.
490-499	Form 4136 Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.
500-519	URP (Timely, full paid) Adjustments (CP-2000)
520-529	Adjustments to Civil Penalty Modules (MFT 55 and no CP 55)
530-539	Adjustments to Civil Penalty Modules (MFT 55 and no CP 55)
540-549	SFR Assessments (1st Notice)
550-589	URP (Other than timely, full paid) adjustments (CP-2000)
590-599	W-4 Civil Penalty Adjustments
600-619	URP (Timely, full paid) adjustments (Statutory Notices)
640-649	SFR Assessments (Statutory Notice)
650-679	URP (Other than timely) adjustments (Statutory Notice)

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BMF  
199

200-299

300-399

400-479

480-489

490-499

500-509

510-519

520-529

530-539

550-559

600-609

620-629

630-639

700-739

740-769

770-789

790-799

800-849

850-859

860-869

870-879

880-889

890-899

900-909

910-919

920-929

930-949

950-959

960-969

970-979

980-989

**Description**

Expired balance write-offs. (TC 534/535). Non-refile DLN.

Forms 1,120X processed in Returns Analysis.

U.S.-U.K. Tax Treaty Claims. Non-refile DLN. *USED IN IMF-P*

Form 4136 claim with Form 843. Preassessment refund only—non-refile.

Form 6249 Claim with Form 843. Non-refile DLN. Preassessment refund only.

Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.

Non-zero Certification, FUTA. Non-refile DLN.

Zero Certification, FUTA. Non-refile DLN.

Civil Penalty—No CP 155 generated—refile DLN. MFT 13.

Civil Penalty—no CP 155 generated—refile DLN. MFT 13.

CAWR related adjustments (See IFM 30(153)0—CAWR Reconciliation). Non-refile DLN.

Overstated Deposit Claimed. Non-refile DLN after cycle 8335.

Category B. Examination Criteria. Refile DLN.

Category B. Examination Criteria. Non-refile DLN.

Substantiated Math Error with TC 420 in the module. Refile DLN.

Unsubstantiated Math Error Protest. Refile DLN.

Adjustment to set math error deferred action on module. Refile DLN.

Reserved.

Offers in Compromise except "or Forms 11", 11-C, 706, 709, 730, 2290 and 4638".

Offers in Compromise Forms 2290 and 4638" only.

Offers in Compromise Forms 706 and 709 only.

Offers in Compromise Forms 11" and 11B" only.

Offers in Compromise Form 11-C only.

Offers in Compromise Form 730 only.

Tentative Carryback Adjustments without original return. (CP 155 generated).

Carryback adjustments below tolerance without original return—No CP 155 generated. Non-refile DLN.

Tentative Carryback Adjustment with original return: (No CP 155 generated.) Also use whenever a TCB adjustment requires a manual reinstatement from the Retention Register.

FICA/FUTA Adjustments based on Free Meals/Lodging (Rowan court case). Non-refile DLN.

Carryback reassessments for statute imminent years. CC Claim Reassessments processed with TC 298 for expired statute years.

Penalty Appeals Indicator Set. Non-refile DLN.

Penalty Appeals Indicator Released. Non-refile DLN.

Complete claim Disallowance without original return (generates CP 155).

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EXH. A

IRM 56(16)(18)  
Explains how  
the IRS identifies  
A high level  
drug dealer

Remember the  
TC-148-S and  
the "T"

(3) The revenue officer, with the group manager's concurrence, will determine the hours the business will be opened based on such factors as amount of property to be claimed, location of the business and usual hours the business was opened to the public. If the taxpayer's business hours extended beyond normal IRS work hours, the establishment should be opened some portions of the non-IRS work hours. For example, if Saturday operation was customary, consideration should be given to providing at least some Saturday hours.

(4) Revenue officers should make reasonable attempts to contact customers on any item with customer identifying information if the item is not claimed. In no event should items clearly identified as a customer's property be sold.

56(16) (18) High-level Drug Dealers

(1) Service personnel are not authorized to participate in arrests, raids and similar activities with Drug Enforcement Administration (DEA) personnel. However, revenue officers may take seizure action against drug related taxpayers in connection with jeopardy or termination assessments or other accounts.

(2) To ensure the safety of revenue officers assigned to work cases arising from narcotics related assessments, the letters "DLP" should appear in red above the entity on all identified drug dealer TDAs. Examination employees will have had a TC 148-S input at the conclusion of an examination on a drug dealer. Resulting TDAs will be identified by a "T" in the history section and FDIs will be identified by a "J". When cases are computer identified, the "DLP" need not be shown. Prior to making personal contact, the provisions of IRM 5143, Armed Escort for Revenue Officers, should be reviewed.

(3) Collection activity reporting will be limited to seizure actions taken in connection with narcotics assessments which involve jeopardy or termination of taxable periods. For reporting requirements, see IRM 5872.(13).

56(16) (19) Drug Paraphernalia

(1) Drug paraphernalia generally includes such items as pipes, syringes and other devices designed to introduce drugs into the human body.

(2) Drug paraphernalia should not be seized unless it is the sole asset through which collection can be enforced.

(3) Other avenues of collection should be utilized prior to seizure of drug paraphernalia. For example, levy on bank accounts or accounts receivable, or seizure of vehicles, cash register contents, furniture & fixture, or other non-drug paraphernalia assets.

(4) When drug paraphernalia is seized, follow the procedures in IRM 56(16) (16):(3) through (4).

56(16) (20) Securities and Negotiable Instruments Received through Form 668-A, Notice of Levy

(1) IRM 545(11)J:(10) tells SCCB that if securities or negotiable instruments are received in response to an ACS-issued Form 668-A, Notice of Levy, they are to be sent to the district.

(2) The revenue officer who receives the securities or negotiable instruments must decide whether to return them or whether to follow the seizure procedures in IRM 56(12).

(3) IRM 536(14).7 tells the revenue officer what to do if securities are received in response to a CFF-issued Form 668-A, Notice of Levy.

56(17) 0 Acquired Property

56(17) 1 General

(1) Acquired property means any property obtained by the United States under the following conditions:

(a) any personal property acquired by the United States in payment of, or as security for, debts arising under the internal revenue laws.

(b) any real property which is, or shall become, the property of the United States by judgment of forfeiture under the internal revenue laws; property redeemed by the Government under IRC 7425, or which has been assigned, set off, or conveyed by purchase, or otherwise to the United States in payment of debts or penalties arising under the laws relating

IORS Code	PRIMARY TDA Code	Secondary TDA Code	Explanation	Comment
DAR	TRSF		Account transferred from another area office.	504/604 notice followed by TDA issuance five weeks later unless a 504/604 or 523/623 was issued on the module in the prior 17 weeks. Then the module will go directly to TDA.
CAU	POT-DUPL		IRS analysis indicates there may be another TDA outstanding for this module.	Immediate TDA issuance.
DAQ	UNDEL		Balance due notice was returned undelivered.	504/604 notice followed by TDA issuance five weeks later unless a 504/604 or 523/623 was issued on the module in the prior 17 weeks. Then the module will go directly to TDA.
DAL	REACTIVE		Account previously in suspended status being reactivated. Status 42, 46-49, 53 (except CC 90 and 93), 64, 71-73, 91 or 99.	Routine notice and TDA issuance.
DAT	S		Account issued because the total balance due for all open modules is above the deferral amount.	BMF-503, 504, TDA; IMF-502, 503, 504, TDA. These cases are issued annually for IMF and IRAF taxpayers and quarterly for BMF taxpayers.
DAA	TR		Liability was manually assessed	Immediate TDA issuance.
DAB	REISSUE		Module previously in TDA status and was reissued because of a dishonored check, credit reversal or a TC 531, 532 or 781	Immediate TDA issuance.
DAD	FRIVRET		Account identified as a frivolous return	Routine notice and TDA issuance.
DAC	O	O	A Transaction Code 148 with Entity Indicator 0 or 1 has been input. This occurs whenever the need arises to expedite the issuance of a TDA	504/604 will be issued five weeks after the first notice followed by a TDA five weeks later.
DA2	P	P	A Transaction Code 148 with Entity Indicator 2 has been input to identify a tax protestor account.	504/604 will be issued five weeks after the first notice followed by a TDA five weeks later.
DA4	E	E	A Transaction Code 148 with Entity Indicator 4 has been input to identify a W-4 Civil Penalty Case.	504/604 will be issued five weeks after the first notice followed by a TDA five weeks later.
<del>DA5</del>	<del>T</del>	<del>T</del>	<del>A Transaction Code 148 with Entity Indicator 5 has been input to identify a Narcotics Case</del>	<del>504/604 will be issued three weeks after the first notice followed by a TDA four weeks later.</del>
DA6	U	U	A Transaction Code 148 with Entity Indicator 6 has been input to identify a Special Enforcement Program Case	504/604 will be issued three weeks after the first notice followed by a TDA four weeks later

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Today's Date: 11/16/1998  
TP Name  
Address

Screen 1

TIN  
MFT 30  
00000-0000 Tax Period 199412  
Name Ctrl

Organization Code 1113  
Employee ID 4162 District Office 56 POD 04  
Source Code 24 POA Number  
X Activity Code 536 Case Code 0  
Second Segment Code 480 Amount Claimed \$0  
Status Code 32 Prior Status Code 41  
Project Code 095 Freeze Code K Dates:  
Tracking Code 0000 Statute 04EE1998  
Message Code 021 Office Audit Requested 12121996  
Aging Reason 00 Action Code 00 AIMS Creation 07181996  
Purge Date ERCS Start 10091996  
Appt Time 00:00 AIMS Start 10011996  
Hours Charged  
Claim Hours 0 Status 06221998  
Non-Claim 90 Transferred from 1313 895 Issued 09181997  
Audit Aide 0 Transfer date 07261996 895 Returned 10271997  
Co-Op Hours 0 Record Type: PENDING  
Transfer-In 0 DROPPED AM424 Record 1 of 2

Selection: Screen 2 First Last Next Back Print\_page Quit  
Alt-Z FOR HELP3 VT100 3 FDX 3 9600 S71 3 LOG CLOSED 3 PRINT OFF 3 OFF-LINE

Today's Date: 11/16/1998  
TP Name  
Address

Screen 1

TIN  
MFT 30  
NC 28678-0000 Tax Period 199512  
Name Ctrl

Organization Code 1113  
Employee ID 4162 District Office 56 POD 00  
Source Code 24 POA Number  
+ Activity Code 537 Case Code 0  
Second Segment Code 480 Amount Claimed \$0  
Status Code 32 Prior Status Code 41  
Project Code 095 Freeze Code K Dates:  
Tracking Code 0000 Statute 04EE1999  
Message Code 037 Office Audit Requested 11011996  
Aging Reason 00 Action Code 00 AIMS Creation 11031996  
Purge Date ERCS Start 12121996  
Appt Time 00:00 AIMS Start 11011996  
Hours Charged  
Claim Hours 0 Status 06221998  
Non-Claim 98 895 Issued 09171998  
Audit Aide 0 895 Returned  
Co-Op Hours 0 Record Type: PENDING  
Transfer-In 0 AM424 ON AIMS Record 2 of 2

Selection: N Screen 2 First Last Next Back Print\_page Quit  
Alt-Z FOR HELP3 VT100 3 FDX 3 9600 S71 3 LOG CLOSED 3 PRINT OFF 3 OFF-LINE

**Activity Codes**

(Reference 411)  
 Appears on Form 5548 on Line 14, Element 20

Code	Description	Code	Description
Form 1040-4 Type E30	TPH Under \$25,000	491	10 or less partners' gross receipts under \$100,000
	A. Income only from wages, Dividends, Interest and Unemployment Compensation.	492	10 or less partners' gross receipts \$100,000 or more
	B. No earned deductions.	493	11 or more partners
	C. No adjustments other than IRA deduction.	Form 1044	REGUC
	D. No or only other than child and dependent care.	Form 1120 DASC	1120 DASC
	E. No payments other than Federal Income Tax withheld and Earned Income Credit.	Form 1120 DASC	1120 DASC
Form 1040, 1040C, 1040PR, 1040PR, 1040SS, and Form 1040 and Form 2444	TPH Under \$25,000	Form 1120 DASC	1120 DASC
	A. Low nonbusiness returns.	205	No Balance Sheet
	B. Does not meet the definition of 1040A-type, TPH Under \$25,000 (Code 030).	206	Assets Under \$250,000
	C. May include returns with Schedule C and/or F when TGR less than \$25,000.	207	Assets \$250,000 Under \$1,000,000
	D. Schedule C and/or F when TGR less than nonbusiness TPH.	208	Assets \$1,000,000 Under \$5,000,000
	E. May include returns with Schedule C and/or F when TGR less than \$25,000.	209	Assets \$5,000,000 Under \$10,000,000
	F. May include returns with Schedule C and/or F when TGR less than \$25,000.	210	Assets \$10,000,000 Under \$50,000,000
	G. May include returns with Schedule C and/or F when TGR less than \$25,000.	211	Assets \$50,000,000 Under \$100,000,000
	H. May include returns with Schedule C and/or F when TGR less than \$25,000.	212	Assets \$100,000,000 Under \$250,000,000
	I. Upper nonbusiness returns.	213	Assets \$250,000,000 and Over
	J. May include returns with Schedule C and/or F when TGR less than \$25,000.	Form 1120S	1120S
	K. Schedule C and/or F, TGR must be less than nonbusiness TPH.	Form 1120S	1120S
	L. High nonbusiness returns.	202	(Trusts)
	M. May include returns with Schedule C and/or F when TGR less than \$25,000.	Form 1120S Taxable	1120S Taxable
	N. May include returns with Schedule C and/or F when TGR less than \$25,000.	Form 1120S	(Non-Taxable)
	O. TGR is \$25,000-\$100,000 then the non-business TPH must be \$100,000 or more.	287	ALL (order to 1/1/81)
	P. Schedule C-TGR Under \$25,000	288	Assets under \$200,000
	Q. Low Business Schedule C.	289	Assets \$200,000 under \$10,000,000
	R. TGR is Under \$25,000 and greater than the non-business TPH.	290	Assets \$10,000,000 and over
	S. Schedule C only, or Schedule C & TGR is greater than or equal to Schedule F TGR.	Form 1120S	Form 1120S
	T. Schedule C-TGR \$100,000 or Over	415	Cross Estate
	U. High business Schedule C.	416	Under \$1,000,000
	V. Schedule C only, or Schedule C & TGR is greater than or equal to Schedule F TGR.	417	\$1,000,000 Under \$5,000,000
	W. Schedule C-TGR Under \$100,000	418	\$5,000,000 and Over
	X. Low Income business Schedule F.	419	Form 1064, Additional Estate Tax Return, Form 1068 (overseas) Generation Skippi & Transfer Tax Return.
	Y. TGR under \$100,000, but if TGR is less than \$25,000, TGR must be greater than nonbusiness TPH.	420	Cross Estate
	Z. Form TGR \$25,000-\$100,000, nonbusiness TPH must be less than \$100,000.	421	Under \$1,000,000
	AA. Schedule F only, or Schedule F & TGR is greater than Schedule C TGR.	422	\$1,000,000 Under \$1,000,000
	AB. High business Item Schedule F.		\$1,000,000 and Over
	AC. Schedule F only, or Schedule F & TGR is greater than Schedule C TGR.		
Form 1041	Passive Non-Allocate		
494	Passive Allocate		
Form 1045			
490			

All returns are return processed prior to January 1994.

MT 48(13)1-77

IR Manual

389

420 Form 706A, Additional Estate Tax Return  
 421 Form 706B, Generation Skipping Transfer Tax Return

## 11 Gift (Total Gifts)

423 Under \$5,000  
 425 \$5,000 Under \$10,000  
 427 \$10,000 Under \$20,000  
 429 \$20,000 Under \$50,000  
 431 \$50,000 Under \$100,000  
 433 \$100,000 Under \$200,000  
 435 \$200,000 Under \$500,000  
 437 \$500,000 Under \$1,000,000  
 439 \$1,000,000 and Over

## 12 Employment

464 Form 940  
 465 Form 941  
 466 Form 942  
 467 Form 943  
 468 Form CT-1  
 469 Form CT-2  
 470 Form 1042  
 471 Form 1040PF  
 472 Form 1040SS

## 13 Excise-Form 720

507	Pricing Issues
508	Economist Studies
514	Prods. & Comds. Aviation Fuel/Gasoline
515	Prods. and Comds., Add'l Tax On Fuels
516	Prods. and Comds., Petroleum (I)
518	Oil Spill—Domestic Petroleum
519	Ozone depleating Chemicals
521	Oil Spill—Import Petroleum
522	F & S. Telephone Services
525	F & S. Transportation by Air
527	F & S. Use of International Air Travel Facilities
528	F & S. Transportation Property by Air
529	Transportation by water
530	<u>F &amp; S. Policies Issued by Foreign Insurers</u>
531	<u>F &amp; S. Obligations to Register</u>
532	<u>Mfgs. Pistols and Revolvers</u>
533	<u>Mfgs. Trucks, Bus Chassis and Body</u>
534	<u>Mfgs. Other Auto Chassis</u>
536	<u>Underground Coal Mine 50¢</u>
537	<u>Underground Coal Mine 2%</u>
538	<u>Mfgs. Surface Coal Mine 25¢</u>
539	<u>Mfgs. Surface Coal Mine 2%</u>
540	Gas Guzzler
541	Mfgs. Fishing Equipment
542	Mfgs. Trolling Motors
544	Mfgs. Bows & Arrows
546	Mfgs. Firearms
548	Mfgs. Truck Parts & Accessories
549	Mfgs. Cartridges and Shells
550	Prods and Comds., Windfall Profit Tax—Quarterly
551	Mfgs.—Alcohol sold but not used as fuel

ACTIVITY CODES

OFFICIAL USE ONLY

# Referral Report of Potential Criminal Fraud Cases

(No Supporting Workpapers or Attachments are Required with this Report)

1a. Name and Address of Taxpayer(s)			1c. Personal Data	
(Last Name)	(First Name)(s)	(MI)	Age:	34
(Number)	(Street)		Health:	Unknown
(City or Town)	(State)	(Zip)	Education:	Unknown
1b. SSN: _____ EIN: _____			Occupation: Insurance Sa	

2. How is the tax liability understated?

- a.  Omitted Income    b.  False Business Expenses    c.  False Itemized Deductions    d.  Failure to File or Pay Tax    e.  Altered Documents    f.  Other (Explain)

3a. Describe in general the covert acts or omissions that indicate fraud or the intent to defraud. *The taxpayer through*

*(b)(3) 6103(a)  
(b)(3) 6103(e)(1)  
(b)(7)(A)*

3b. Summarize defense given by the Taxpayer, Representative, or Preparer for acts of fraud.

*The taxpayer writes, letters in response to correspondence from the IRS. An appointment was set for October 31, 1996 and the taxpayer sent a letter saying he would not be at the meeting. The taxpayer states that he deals in corporate securities and does not have any taxable income.*

*(b)(3) 6103(a), 6103(e)(1), (b)(7)(A)*

3c. If a summons was served on the Taxpayer, or collection measures were taken against the Taxpayer's assets, explain briefly.

*(b)(3) 6103(e)(1), (b)(7)(A)*

*.. The taxpayer has cited various court cases in the letter he has sent to the IRS that mention his 5th Amendment rights.*

4. Tax Return Information: *No returns have been filed for 9412 or 9512.*

a. What is the earliest statute expiration date? \_\_\_\_\_ b. and related tax year? \_\_\_\_\_

Tax Year	Return Form	Taxable Income (TI) per return	Adjustments to TI due to Fraud	Corrected Taxable Income	Corrected Tax	Additional Tax due to Fraud
----------	-------------	--------------------------------	--------------------------------	--------------------------	---------------	-----------------------------

*(b)(7)(A)*

5. If this is a single year referral, comment on the prior and subsequent year returns.

Prior: 9412 and 9512 are being referred.

Subsequent:

6. Records were kept by Taxpayer or Spouse  Other (specify)

Describe records (e.g. computer, single or double entry, cash receipts book, etc., or none)

The taxpayer has refused to submit any records.

7. Describe the basis or method used for the computation of the fraud adjustments.

(b)(7)(A), (b)(3) 6103(e)(1)

8. Non-taxable Sources of Income (Y or N)

Unknown at this time -

Gifts - Amount \_\_\_\_\_ Inheritances - Amount \_\_\_\_\_  
Loans - Amount \_\_\_\_\_ Other - Amount \_\_\_\_\_

9. Administrative Information:

a. District Code 56 b. PIA Code 5707 c. MSSP Code 06 d. Source Code 24 e. Activity Code 536 f. DIF Score \_\_\_\_\_ g. Project Code 165 h. 6501 (e) (Y or N)





① AMDISA

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

②

MFT 30 TX-PRD>9212

NM-CTRL>

JULIAN-DT>712  
OPNG-CRTN/TRANSFR-DT>01/24/9  
EXAM-START-CYC>97/03

DIF-REASON-CODE>R

ACTY-CD>533 ③

④

STATUTE-XTRCTN-IND>1 PARTIAL-AGRMT-IND>0 TC-300-IND>0

DO/SC>31 POD>93

CURRENT-STATUS-CD/DT

25 PRE 90-DAY

04/28/97

PR-STATUS-CD/DT

51 ESP

04/25/9

2931<ORG-CD 0000<PR-ORG-CD

PROJ-CD>168

RET-NOT-REQ

UPDT-CD>E

PR-UPDT-CD>

PICF-CD>0 ⑤

XREF-DLN>31277331200006

RETURN-RECVD-DT>12/09/96

DELQ-RET-IND>1

RET-PSTNG-YR>97

⑥ AIMS-SER-NUM>31058133

NM-LN-YR>92

PRIMARY-NM-LN>

CONTINUATION-OF-PRIMARY-NAME>

ACT-IND>1 STREET>

CITY>CINCINNATI

⑦

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

③ MFT Master file Tax Code

CC AM 424 Examination Request Master File

1 Source Code	2 Organ Code	3 MFT	4 Status Code	5 Return for Rpt/Revised	6 Over rate 00	7 Priority Code	8 Org. Code	9 Full Code	10 Alpha Code	11 Ext	
214	34311	310	010	X		116 8		01217	E E	1010	
12A			12B Name Control or Check Digit			13 Tax Period		14 Activity Code		15 Amount Control Digit	
912112			51313			C					
913112			51313			C					
914112			51313			C					
915112			51313			C					
17 Reason for Request/Related Return						Related Return Source Code		18 Requester Date Organization			
New Filer Tax Protester						CORR EXAM		G. L. ... F. P. S.			
19						20		21			
Tax Period						Source		Date		Transmittal	
21 TC 424 Request Date						22 Followup Action		23 Operator Date			

Doc Code	Description	Manual Abstract Codes	Com. Gen. Abstract Codes
20	1120-IC-015 1120-PreAop		008
<b>D. Excise (True Tax Class 4)</b>			
03	11-C		
07	Ex. Coll., NMF Excise		134
13	730		135
	8612—Return of Excise Tax on Undistributed of Real Estate Investment Trusts		192
21	8813—Return of Excise Tax on Undistributed Income of Regulated Investment Companies		193
22	Credit Adjustments		
24			
2728	Sub. Pay., NMF Excise		
	ADD'l Pen., Form 990	155	
	ADD'l Pen., Form 990-AR	157	
	Tax Return Preparer Penalties IRC 6694(a) Negligence	171	
	IRC 694(b) Willful Understatement	174	
	IRC 6695(a) Failure to Furnish Copy to T/P	175	
	IRC 6695(b) Failure to Sign Return	176	
	IRC 6695(c) Failure to Provide TIN	177	
	IRC 6695(d) Failure to Retain Copy or List	178	
	IRC 6695(e) Failure to File Info. Return	179	
	Other	139	
	Child Support Payments	170	
30	Form 720—		
	Gasoline (Retailers tax) noncommercial aviation	014	
	Telephone service	022	
	Transportation of persons by air	026	
	Use of international air travel facilities	027	
	Transportation of property by air	028	
	Policies issued by foreign insurers	030	
	Pistols-Revolvers	032	
	Truck, bus, and chassis and bodies	033	
	Other auto chassis, etc.—Repealed 12-11-71 Nos. 36-39 Black Lung Benefits Revenue Act 1977	034	
	Underground coal mined @ 50 cents per ton	036	
	Underground coal mined @ 2% limitation per ton price	037	
	Surface coal mined @ 25 cents per ton	038	
	Surface coal mined @ 2% limitation per ton price	039	

PENALTIES

ACTIVITY CODES MAY BEGIN WITH 0 OR 5

OFFICIAL USE ONLY

1989 - Subsec. (a). Pub. L. 101-239, Sec. 7732(a), substituted 'Understatements due to unrealistic positions' for 'Negligent or intentional disregard of rules and regulations' in heading and amended text generally. Prior to amendment, text read as follows: 'If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$100 with respect to such return or claim.'

Subsec. (b). Pub. L. 101-239, Sec. 7732(a), substituted 'Willful or reckless conduct' for 'Willful understatement of liability' in heading and amended text generally. Prior to amendment, text read as follows: 'If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).'

Subsec. (c)(1). Pub. L. 101-239, Sec. 7737(a), inserted at end 'Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).'

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7732(b) of Pub. L. 101-239 provided that: 'The amendment made by subsection (a) (amending this section) shall apply with respect to documents prepared after December 31, 1989.'

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6503, 6511, 6696, 6701, 7407, 7421 of this title.

-CITE-

26 USC Sec. 6695

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 68 - ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND  
ASSESSABLE PENALTIES  
Subchapter B - Assessable Penalties  
PART I - GENERAL PROVISIONS

-HEAD-

Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons

-STATUTE-

(a) Failure to furnish copy to taxpayer

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(b) Failure to sign return



Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(c) Failure to furnish identifying number

Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(d) Failure to retain copy or list

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of \$50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(e) Failure to file correct information returns

Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of \$50 for -

(1) each failure to file a return as required under such section, and

(2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(f) Negotiation of check

Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of \$500 with respect to each such check. The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer.

(g) Failure to be diligent in determining eligibility for earned income credit

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of \$100 for each such failure.

-SOURCE-

(Added Pub. L. 94-455, title XII, Sec. 1203(f), Oct. 4, 1976, 90 Stat. 1692; amended Pub. L. 95-600, title VII, Sec. 701(cc)(1), Nov. 6, 1978, 92 Stat. 2923; Pub. L. 98-369, div. A, title I, Sec.

# Form W-4 (2000)

**Purpose.** Complete Form W-4 so your employer can withhold the correct Federal income tax from your pay. Because your tax situation may change, you may want to refigure your withholding each year.

**Exemption from withholding.** If you are exempt, complete only lines 1, 2, 3, 4, and 7, and sign the form to validate it. Your exemption for 2000 expires February 16, 2001.

**Note:** You cannot claim exemption from withholding if (1) your income exceeds \$700 and includes more than \$250 of unearned income (e.g. interest and dividends) and (2) another person can claim you as a dependent on their tax return.

**Basic instructions.** If you are not exempt, complete the Personal Allowances Worksheet below. The worksheets on page 2 adjust your withholding allowances based on itemized

deductions, adjustments to income, or two-earner/two-job situations. Complete all worksheets that apply. They will help you figure the number of withholding allowances you are entitled to claim. However, you may claim fewer (or zero) allowances.

**Child tax and higher education credits.** For details on adjusting withholding for these and other credits, see Pub. 919, How Do I Adjust My Tax Withholding?

**Head of household.** Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See line E below.

**Nonwage income.** If you have a large amount of nonwage income, such as interest or dividends, you should consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax.

**Two earners/two jobs.** If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 prepared for the highest paying job and zero allowances are claimed for the others.

**Check your withholding.** After your Form W-4 takes effect, use Pub. 919 to see how the dollar amount you are having withheld compares to your projected total tax for 2000. Get Pub. 919 especially if you used the Two-Earner/Two-Job Worksheet on page 2 and your earnings exceed \$150,000 (Single) or \$200,000 (Married). Recent name change? If your name on line 1 differs from that shown on your social security card, call 1-800-772-1213 for a new social security card.

## Personal Allowances Worksheet (Keep for your records.)

A Enter "1" for yourself if no one else can claim you as a dependent . . . . . A \_\_\_\_\_

B Enter "1" if:   
 • You are single and have only one job; or   
 • You are married, have only one job, and your spouse does not work; or,   
 • Your wages from a second job or your spouse's wages (or the total of both) are \$1,000 or less. . . . . B \_\_\_\_\_

C Enter "1" for your spouse. But, you may choose to enter -0- if you are married and have either a working spouse or more than one job. (Entering -0- may help you avoid having too little tax withheld.) . . . . . C \_\_\_\_\_

D Enter number of dependents (other than your spouse or yourself) you will claim on your tax return . . . . . D \_\_\_\_\_

E Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above) . . . . . E \_\_\_\_\_

F Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit . . . . . F \_\_\_\_\_

G **Child Tax Credit:**   
 • If your total income will be between \$18,000 and \$50,000 (\$23,000 and \$63,000 if married), enter "1" for each eligible child.   
 • If your total income will be between \$50,000 and \$80,000 (\$63,000 and \$115,000 if married), enter "1" if you have two eligible children, enter "2" if you have three or four eligible children, or enter "3" if you have five or more eligible children . . . . . G \_\_\_\_\_

H Add lines A through G and enter total here. Note: This may be different from the number of exemptions you claim on your tax return. ► H \_\_\_\_\_

For accuracy, complete all worksheets that apply.   
 • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.   
 • If you are single, have more than one job and your combined earnings from all jobs exceed \$34,000. OR if you are married and have a working spouse or more than one job and the combined earnings from all jobs exceed \$60,000, see the Two-Earner/Two-Job Worksheet on page 2 to avoid having too little tax withheld.   
 • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.

Cut here and give Form W-4 to your employer. Keep the top part for your records.

Form <b>W-4</b> Department of the Treasury Internal Revenue Service		<b>Employee's Withholding Allowance Certificate</b>		OMB No. 1545-0010 <b>2000</b>
1 Type or print your first name and middle initial		Last name		2 Your social security number
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married, but legally separated, or spouse is a nonresident alien, check the Single box.		
City or town, state, and ZIP code		4 If your last name differs from that on your social security card, check here. You must call 1-800-772-1213 for a new card. <input type="checkbox"/>		
5 Total number of allowances you are claiming (from line H above OR from the applicable worksheet on page 2)				5
6 Additional amount, if any, you want withheld from each paycheck				6 \$
7 I claim exemption from withholding for 2000, and I certify that I meet BOTH of the following conditions for exemption: • Last year I had a right to a refund of ALL Federal income tax withheld because I had NO tax liability AND • This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability. If you meet both conditions, write "EXEMPT" here. ► 7 <b>EXEMPT</b>				
Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate, or I am entitled to claim exempt status.				
Employee's signature (Form is not valid unless you sign it) ► <i>[Signature]</i>		Date ► <i>[Date]</i>		
8 Employer's name and address (Employer: Complete lines 3 and 10 only if sending to the IRS.)		9 Office code (optional)	10 Employer identification number	

Cal. No. 102200

Emp. ID # \_\_\_\_\_ (Required)

NO INCOME FROM 26 CFR SECTION 1.861-8(F)(1)

"NO INCOME FROM 26 CFR SECTION 1.861-8(F)(1)"

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
Detroit Computing Center  
Questionable W-4 Program  
P.O. Box 331100  
Detroit, MI 48232-7100

Letter: 2776(CG)  
Date: 08/23/2000  
Social Security Number:  
Form W-4 Dated: 02/28/2000  
Form W-4 Claimed: Exempt  
Employer:

Dear

Based on our information, we determined that your Form W-4, Employee's Withholding Allowance Certificate, does not meet the requirements of the Internal Revenue Code and related Employment Tax Regulations. We have, therefore, directed your employer to disregard your Form W-4 and withhold as if you were claiming the following:

Marital Status:	Married
Allowances:	0

This will increase the amount of federal income tax withheld from your paycheck. Your employer will honor a new Form W-4 that you file only if it claims a number of allowances less than or equal to the number of allowances shown above.

If you want us to reconsider our determination, you can send us additional information supporting or revising your allowance claim. Please include your telephone number and the hours we can reach you along with any information you send us. Send it to us at the address shown above.

You also have the option to appeal our determination within 30 days from the date of this letter. Enclosed is Publication 5, "Your Appeal Rights and How to Prepare a Protest If You Don't Agree", explaining the appeal rights you have concerning our determination.

If you have any questions, you may call M. W. PRATT, I.D.# 1209444, Tax Examiner, Monday through Friday between 7 a.m. and 6 p.m. Eastern time at 1-313-234-1304 (not a toll-free number).

Sincerely,

Enclosure:  
Publication 5

/s/ John Miller  
John Miller, Chief  
Currency Reporting & Compliance

Letter: 2776(CG)(Rev.09-99)

3(10)(72)7.2 (1-1-91)  
 Non-Master File Numbering Chart

FORM NO.	DO/SC CODE	TAX CLASS & DOC CODE	BLOCKING SERIES	SPECIAL INSTRUCTIONS
CT-1	D	601	000-199	KCSC
CT-2	D	602	000	
Excise	D	694	000	Protest Cases
11C	D	603	000-399	
154	D	660	000-399	
706	D	606	000-399	
706A	D	684	590-599	
Schedule R-1	D	685	590-599	Form 706
706NA	D	605	000-399	
709	D	609	000-399	
720	D	630	000	
730	D	613	000-399	
926	D	632	000-399	Transfer stock to foreign concern
940	D	640	000	
941	D	641	000-399 200-299	Taxable Non-taxable also 941 stamped "Monthly Collection Filer"
941NMI	P	641	910-919	
942	D	642	000-099	
943	D	643	000	
950	D	690	000-299	
990BL/2758	C	688	500-599	CSC only
990C	D	692	000-299	
990PF/2758	D	691	000-299	
990T/2758	D	693	000-299	
1040	D	610	000-099 200-299	Taxable Non-taxable
1040NR (FIDUCIARY)	D	672	000-499 500-599	PSC only Page 4 only PSC only Lloyd's of London
1040NR (FIDUCIARY)	D	673	000-499 500-599	PSC only Wages subject to withholding on line 8 PSC only Lloyd's of London
1041	D	644	200-239	Non-PAC
1041	D	644	240-249	Non-taxable PAC only
1041	D	644	250-259	Taxable PAC Only
1041A/2758	D	681	000	
1042	P	633	000-999	1984 and prior NMF 1985 and subsequent BMF
1042	P	633	500-599	Renumbered
1042S/2758	P	666	000-299 400-599	

FORM NO.	DO/SC CODE	TAX CLASS & DOC CODE	BLOCKING SERIES	SPECIAL INSTRUCTIONS
1065	D	665	900-999	
1066	AN	660	000-399	Prior to 8712
1120	D	620	100-199 200-299	Taxable Non-taxable
1120	D	620	600-699	Non-taxable "PAC" only 7511 and prior
1120F	P	667	000-399	PSC ONLY
1120ICDISC	D	669	200-299	Others
1120L/M		615	000-199 200-299 500-599	Taxable Non-taxable Renumbered misblocked return by PSC only. Documents prior 12/31/67 are numbered to NM
1120ND	D	620	000	Trustee or disqualified person box checked, part VI, page 2 should be only entries after ent section
1120S	D	620	700-799	Taxable "PAC" only 7511 and prior
1120S	D	616	800-899	"PAC" case
1120X	D	620	800-899	"PAC" case
1296	D		647	
1331	D	654	200-210	
1331-B	D	654	211-219	
1331-C	D	654	220-229	
2290	D	695	000-399	
2438	D	686	000	
2749	D	654	190-198	100% Penalty Assessment
3177/3177A	D	677	000-399	
4720A	D	671	000-399	
5227	D	683	000-399	Form 1041PF
5330	D	635	500-599	Original Form 5330
5394	S	656	000-089 090-099	Taxpayer Transcript Request IDRS Request
5713	D	608	000	International Boycott Report Form (PSC)
5734	D	665	000-349 050-099 655 190-199	TIN Penalty (IRP: see 3(10)(80)) Failure to File Penalty Examination prepared Penalty TEFRA Civil Penalties, i.e., abusive tax shelters, Aiding and Abetting, and Frivolous Income Tax Returns
			420-424	Child Support Assessments
			600-649	Other Assessments
			950-959	IRC 6693 Penalty Assessments
			960-969	EP (5500 series) Penalty Assessments
			990-999	EO Penalty Assessments
5811	D	647	000-399	Titled "Audit Return Preparer Case Closing Document"

Doc Code	Description	Manual Abstract Codes	Com. Gen. Abstract Codes
76	Dep. Fund App. NMF WFT/FCA E238	001 208	
87	Dishonored Checks E238	001 208	
46	Partnership W/4 Foreign Pfr	215	
<b>B. Individual Income (True Tax Class 2)</b>			
10	1040 Pre-ADP		004
24	Credit Adjustments	004 005	
27	Sub. Pay. Docs., 1040 Pre-ADP, 1041 Pre-ADP	004 005	
28	NMF TDA Payments	004 005	
44	1041 \$50,000 (+), Pre-ADP		005
62	Adv. Pay., NMF Indiv.	004 005	
72/73	1040-NR		004
74	Misc. Rev. NMF Indiv.	004 005	
76	Dep. Fund App., NMF Indiv.	004 005	
87	Dishonored Checks	004 005	
23	8697	211 212	
81	1041A		155
65	1065	004	
<b>P Corporation (True Tax Class 3)</b>			
15	1120 LFM		006
16	1120S		006
24	Credit Adjustments, 1066	006 007 008 207	
27	Sub. Pay., 1120-Pre-ADP, 1120-S Pre-ADP, 990-C, 990-T,	006 007 008 009 191 207	
28	NMF TDA Payments, 1066	006 007 008 009 191 207	
69	1120 DISC Penalty 1066-U.S. Real Estate Mortgage Investment	006	
60	Conduit Income Tax Return		
62	Adv. Pay., NMF Corp., 1066	006 007 008 207	
66	1120-F Non-Effectively Connected Income		006
67	1120-F Effectively Connected Income		006
74	Misc. Rev., NMF Corp 1066	006 007 008 207	
75	FTD NMF Corp., 1066	006 007 008 207	
76	Dep. Fund Apped., NMF Corp., 1066	006 007 008 207	
86	2438		006
87	Dishonored Checks, 1066	006 007 008 207	
69	8404	009	
23	8697	210	

P NO PENALTIES

OFFICIAL USE ONLY

SI 8111072 U.S. GPO: 1985-50-0880005 FORM NO. 3728 (1-80)

*Do Not Solicit re. App'l HA IDK. specific inv. Develop Fraud*

*Eric Wylas - Protest Coordinator Jay - (1)*

*Message left at 12:36 P.M. 10/2/96 ghr*

AMDISA

MF>30 TX-FRD>9412

NM-CTRL>

PRIMARY-NAME>NO NAME FOUND

JULIAN-DT>6201

ASED> /EE/

OPNG-CRTN/TRANSFR-DT>07/18/96

SOURCE-CD>24 REFUSAL TO FILE TDI

ACTY-CD>536

TC 424 RECORD

STATUTE-XTRCTN-IND>0 PARTIAL-AGRNT-IND>0 TC-300-IND>0

DD/SC>56

CURRENT-STATUS-CD/DT

PR-STATUS-CD/DT

08 SELECTED-NOT ASSIGNED

07/18/96

06 AWAITING CLASSIFICATION

07/18/96

1916<ORG-CD> 5180<PR-ORG-CD>

UPDT-CD>E

PR-UPDT-CD>A

PROJ-CD>165

PUSH-CD>021

RET/5546/LABELS NOT REQ

FICF-CD>0

XREF-DLN>56277200200006

RET-FSTNG-YR>

NM-LN-YR>00

PRIMARY-NM-LN>

NAME-ADDRESS SECTION NOT PRESENT

CONTINUATION-OF-PRIMARY-NAME>

ACT-IND>1

STREET>

CITY>

STATE>

ZIP>

303

Form 3728

FORM NO. 3728 (1-80)





Attachment (To Be Associated With Return)	File location code (DLN/DCN)													
	Digits		Digits		Digits		Digits			Digits		Digits		Digits
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
IDRS employee number 17	1	7	2	4	7	6	2	7	0	0	0	1	3	7
Originator's stop number 822	File Location Code	Tax Class	Document Code	Julian Date	Block Number	Serial Number	Computer Generated Year							

This form is used for the specific purpose of associating or attaching information to a return in the files storage area. The following information must be that of the return to which these attachments should be associated.

EIN or SSN	Name control	Form 1040	Tax period 9212
------------	--------------	--------------	--------------------

The following is a list of the tax classes, document codes, and MFT codes that **CANNOT** have attachments associated with them.\*

BMF	IMF	NMF	IRAF / EPMF	MFT
117 424 817	214	649	001	13
118 448 818	217	614	007	55
124 517 824	218		010	
134 518 834	220		014	
148 524 848	224			
317 534 904	234			
318 548 949	248			
324 717 950	249			
334 718 963**	250			
348 724 977	263			
417 734 978	277			
418 748 980	278			

\* Telefile documents with a blocking series of 900 cannot have attachments. \*\*Tax Class/Document Code 963 with a blocking series of 800 can have attachments.

### Additional Instructions

Return information (i.e., schedules, W-2's, correspondence, etc.) should be transmitted to files using the controlling DLN. The controlling DLN can be found using CFOL command codes.

Items to be associated with Forms 8453, for tax years 1989 and prior, should be transmitted to files using the DCN. Items to be associated with Forms 8453, for tax year 1990 and subsequent tax years, tax class/doc code 259 should be used.

Unserviceable (Files Use ONLY)		
Reason	Date Serviced	Researcher's Name
Block missing		
Wrong DLN		
Wrong taxpayer		
Other (Explain)		

↙  
Frivolous Return Penalty

(20)(10)91 General

(1) IRC section 6702 provides for an immediate assessment of a \$500 civil penalty against individuals who file frivolous income tax returns or frivolous amended income tax returns. The penalty is not based on tax liability. There does not need to be an underpayment of tax or understatement of liability in order for the penalty to be imposed in addition to any other penalty. The intent of the law is to stop the flow of returns, amended returns, or documents which purport to be returns, that contain altered line items or claim clearly unallowable deductions or credits based on a frivolous position.

↙  
(2) The penalty can be asserted on a frivolous Form 1040, Form 1040X Amended Return, Form 843, Claim and others which:

(a) Do not contain sufficient information to judge the correctness of the tax, or

(b) Contain information that on its face indicates the self-assessment is incorrect, and

(c) The conduct referred to in (a) or (b) is due to a position which is frivolous or a desire to delay or impede the administration of the tax laws.

(3) Some of the schemes which may cause the assertion of the penalty are:

(a) Unallowable deductions such as the gold standard, discounted Federal Reserve Notes and War tax;

(b) wages are not income;

(c) constitutional claims (i.e., Fourth, Fifth and Sixteenth amendments);

(d) invalid returns; and

(e) nonprocessable returns.

(4) The frivolous return penalty is not applied against partnerships, corporations or estates.

(5) Statute of Limitations. A frivolous return:

(a) Does not constitute a valid return when the Service is unable to process the return, therefore, the IRC section 6702 penalty may be assessed at any time.

(b) Does constitute a valid return when the Service is able to process the return. Therefore, the IRC section 6702 penalty must be assessed within 3 years after the return was filed.

(6) See Exhibit (20)100-7, for the applicable penalty reference numbers.

(20)(10)92 Penalty Computation

(1)The civil penalty is \$500 per frivolous document.

(2)A taxpayer can have multiple penalties. However, for a joint return, only one \$500 penalty is assessed against the husband and wife, per frivolous document.

(3)See (20)(10)92:3 for LEM XX-(10)00.

#### (20)(10)93 Assertion

(1)Generally, the service center identifies frivolous returns and assesses the penalty.

(2)If the field receives a return that warrants a frivolous return penalty, the employee should indicate this on a Form 3198, Special Handling Notice, attached to the original return.

(3)A Form 8278, Computation and Assessment of Miscellaneous Penalties, will be completed and used for assessment unless the penalty is related to a joint return. The Non-Master File Assessment Voucher, Form 5734, will be used for the joint assessment of the penalty. See IRM Part IV for further information.

#### (20)(10)94 Penalty Relief

Taxpayers seeking judicial review of the imposition of the penalty must first pay the entire penalty. A Letter of Disallowance is sent to the taxpayer and the taxpayer can file suit contesting this penalty in the district court or U.S. Court of Federal Claims Court.

#### (20)(10)(10)0 IRC section 6705

Failure by Broker to

Provide Notice to Payors

#### (20)(10)(10)1 General

(1)IRC section 6705 provides a \$500 penalty for Failure by Broker to Provide Notice to Payors that a payee is subject to backup withholding.

(2)Under IRC section 3406(d)(2)(B), a broker who acquires a readily tradable instrument for a payee (customer) must notify the payor of such instrument within 15 days of the acquisition that the payee is subject to backup withholding if either of the following conditions exist:

(a) The payee fails to furnish the TIN to the broker.

(b) The IRS notifies the broker that the TIN is incorrect.

(c)The payee has not provided the broker with a certification that the payee is not subject to backup withholding, or

(d)The IRS has notified the broker before the acquisition that the payee is subject to backup withholding.

diesel-powered highway vehicle. The IRC section 6715 penalty also applies if a person wilfully alters, or attempts to alter, the strength or composition of the dye in dyed fuel.

**(20)(10)(60)1.1 Improper Sale of Dyed Fuel**

(1) If any dyed fuel is sold or held for sale by any person for any use that such person knows or has reason to know is not a nontaxable use of such fuel, then such person shall pay an IRC section 6715 penalty in addition to the tax (if any).

(2) "Dyed fuel" means any dyed diesel fuel, whether or not the fuel was dyed pursuant to IRC section 4082.

(3) "Nontaxable use" has the meaning given to the term by IRC section 4082(b).

**(20)(10)(60)1.2 Improper Use of Dyed Fuel**

(1) If any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed, then such person shall pay an IRC section 6715 penalty in addition to the tax (if any).

(2) "Dyed fuel" means any dyed diesel fuel, whether or not the fuel was dyed pursuant to IRC section 4082

(3) "Nontaxable use" has the meaning given to the term by IRC section 4082(b).

**(20)(10)(60)1.3 Willful Alteration of Dye Concentration**

(1) If any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to IRC section 4082 in any dyed fuel, then such person shall pay a penalty in addition to the tax (if any).

(2) This penalty does not apply in the following cases:

(a) Diesel fuel that is dyed pursuant to the regulations under IRC section 4082 is blended with any undyed liquid and the resulting product satisfies the dyeing requirements of the regulations under IRC section 4082.

(b) Diesel fuel that is dyed pursuant to the regulations under IRC section 4082 is blended with any other liquid (other than diesel fuel) that contains the type and amount of dye required for diesel fuel dyed in accordance with the regulations under IRC section 4082.

(c) Diesel fuel that is not dyed pursuant to the regulations under IRC section 4082 is blended with diesel fuel that is dyed pursuant to IRC section 4082 and the blending occurs as part of nontaxable use.

**(20)(10)(60)2 Penalty Calculation**

(1) For the first violation, the amount of the penalty on each act is the greater of--

(a) \$1,000, or

(b) \$10 for each gallon of the dyed fuel involved.

(2) For additional violations, the amount in (1)(a) is determined by multiplying \$1,000 times the number of prior penalties imposed by IRC section 6715 on such person (or a related person or any predecessor of such person or related person).

(3) Thus, for example, if 50 gallons of dyed fuel is involved in a person's first violation, the penalty would be \$1,000 because that amount is greater than 50 X \$10. If 150 gallons of dyed fuel is involved in that person's second violation, the penalty would be \$2,000 because that amount (\$1,000 X 2 violations) is greater than 150 X \$10.

(4) If a penalty is imposed under IRC section 6715 on any business entity, each officer, employee, or agent of such entity who willfully participated in any act giving rise to such penalty is jointly and severally liable with such entity for such penalty.

#### (20)(10)(60)3 Assessment

(1) This penalty is assessed by District Office Examination using Form 5734, Non Master File Assessment Voucher or Form 2859, Request for Quick or Prompt Assessment.

(2) Use penalty Reference Number (PRN) 656 on forms requiring a PRN.

#### (20)(10)(60)4 Penalty Relief

(1) This is no reasonable cause exception to this penalty.

(2) However, note the "knowledge" requirement in (20)(10)(60)2(1) and (20)(10)(60)3(1) and the requirement for "willfulness in (20)(10)(60)4(1).

#### (20)(10)(70)0 IRC section 7268

Possession with Intent

to Sell in Fraud of Law

or to Evade Tax

IRC section 7268 is administered by the Bureau of Alcohol, Tobacco and Firearms. See (20)(10)(70)0 of LEM XX.

#### (20)(10)(80)0 IRC section 7270

Insurance Penalties

IRC 7270 provides for penalties for the issuance of insurance policies by foreign insurers with the intent to evade tax.

#### (20)(10)(90)0 IRC section 7271

530 code

Penalties for Offenses

Relating to Stamps

IRC section 7271 is administered by the Bureau of Alcohol, Tobacco and Firearms. See (20)(10)(80)0 of LEM XX.

(20)(10)(100)0 IRC section 7272

Penalties for Failure to Register as Required by Subtitle E

IRC section 7272 relates to penalties for failure to register as required by subtitle E, Alcohol, Tobacco and certain other excise taxes.

(20)(10)(110)0 IRC section 7273

Penalties for Offenses

Relating to Special Taxes

IRC section 7273 is administered by the Bureau of Alcohol, Tobacco and Firearms. See (20)(10)(90)0 of LEM XX.

(20)(10)(120)0 IRC section 7275

Penalties for Offenses

Relating to Airline Tickets

and Advertising

IRC section 7275 provides that any person who violates the provisions of this section is guilty of a misdemeanor for each violation and upon conviction shall be fined not more than \$100.

(20)(10)(130)0 IRC section 7304

Penalty for Fraudulently

Claiming Drawback

IRC section 7304 is administered by the Bureau of Alcohol, Tobacco and Firearms. See (20)(10)(100)0 of LEM XX.

(20)(10)(140)0 IRC section 7342

Penalty for Refusal to

Permit Entry or

Examination

Par. (4). Pub. L. 94-455, Sec. 1904(b)(9)(D), struck out par. (4) which related to the purchase or receipt of adulterated butter.

Par. (5). Pub. L. 94-455, Sec. 1904(b)(9)(D), struck out par. (5) which related to packages of oleomargarine found without required stamps or marks.

Par. (6). Pub. L. 94-455, Sec. 1904(b)(8)(G), struck out par. (6) which related to white phosphorus matches.

Pars. (7), (8). Pub. L. 94-455, Sec. 1904(b)(9)(D), redesignated pars. (7) and (8) as (2) and (3), respectively.

1974 - Par. (4). Pub. L. 93-490 substituted provisions relating to purchase or receipt of adulterated butter and payment of tax under section 4821 of this title for provisions relating to purchase or receipt of filled cheese or adulterated butter and payment of tax under section 4821 or 4841 of this title.

Par. (5). Pub. L. 93-490 substituted provisions relating to packages of oleomargarine subject to tax under subchapter F of chapter 38 of this title for provisions relating to oleomargarine or filled cheese subject to tax under subchapter F of chapter 38 or part II of subchapter C of chapter 39 of this title.

1958 - Pub. L. 85-881 repealed par. (2) which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as an Effective Date of Repeal note under sections 4831 to 4834 of this title.

-CROSS-

#### CROSS REFERENCES

Authorization for action to recover forfeiture, see section 7401 of this title.

Effective date of this chapter, see section 7851 of this title.

Jurisdiction of district court of the United States of proceedings for recovery of forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Penalties relating to stamps, see section 7271 of this title.

Provisions common to forfeitures, see section 7321 et seq. of this title.

Remission or mitigation of forfeitures, see section 7327 of this title.

-CITE-

26 USC Sec. 7304

ATF only

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter C - Forfeitures

PART I - PROPERTY SUBJECT TO FORFEITURE

-HEAD-

Sec. 7304. Penalty for fraudulently claiming drawback

-STATUTE-

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the Secretary.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 struck out 'or his delegate' after 'Secretary'.

-CROSS-

CROSS REFERENCES

Authorization for action to recover forfeiture, see section 7401 of this title.

Effective date of this chapter, see section 7851 of this title.

Judicial action to enforce forfeiture, see section 7323 of this title.

Jurisdiction of district court of the United States of proceeding for recovery of forfeiture, see section 1355 of Title 28, Judiciary and Judicial Procedure.

-CITE-

26 USC PART II - PROVISIONS COMMON TO FORFEITURES

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter C - Forfeitures  
PART II - PROVISIONS COMMON TO FORFEITURES

-HEAD-

PART II - PROVISIONS COMMON TO FORFEITURES

-MISC1-

Sec.

7321. Authority to seize property subject to forfeiture.

7322. Delivery of seized personal property to United States marshal.

7323. Judicial action to enforce forfeiture.

7324. Special disposition of perishable goods.

7325. Personal property valued at \$100,000 or less.

7326. Disposal of forfeited or abandoned property in special cases.

7327. Customs laws applicable.

7328. Cross references.

AMENDMENTS

1986 - Pub. L. 99-514, title XV, Sec. 1566(d), Oct. 22, 1986, 100 Stat. 2763, substituted '\$100,000' for '\$2,500' in item 7325.

1976 - Pub. L. 94-455, title XIX, Sec. 1904(b)(8)(H)(ii), Oct. 4, 1976, 90 Stat. 1816, struck out item 7328 'Confiscation of matches exported' and redesignated item 7329 as 7328.

1958 - Pub. L. 85-859, title II, Sec. 204(11), Sept. 2, 1958, 72 Stat. 1429, substituted '\$2,500' for '\$1,000' in item 7325.



EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

-CROSS-

CROSS REFERENCES

Authorization for action to recover penalty, see section 7401 of this title.

Jurisdiction of district court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7012 of this title.

-CITE-

26 USC Sec. 7273 ATF only

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter B - Other Offenses

-HEAD-

Sec. 7273. Penalties for offenses relating to special taxes

-STATUTE-

Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than \$10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 866; Oct. 22, 1968, Pub. L. 90-618, title II, Sec. 205, 82 Stat. 1235.)

-MISC1-

AMENDMENTS

1968 - Pub. L. 90-618 redesignated former subsec. (a) as existing provisions, struck out heading "General rule", all references to subsecs. (a) or (b) of section 6806 of this title, provision that nothing in this subsec. affects the liability of any person doing any act, etc., upon which a special tax is imposed for such special tax, and struck out subsec. (b) setting forth penalties for the failure to comply with the provisions of section 6806(c) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Procedure.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7208, 7303 of this title.

-CITE-

26 USC Sec. 7272

ATF only

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter B - Other Offenses

-HEAD-

Sec. 7272. Penalty for failure to register

-STATUTE-

(a) In general

Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of \$50.

(b) Cross references

For provisions relating to persons required by this title to register, see sections 4101, 4412, and 7011.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 866; June 30, 1958, Pub. L. 85-475, Sec. 4(b)(8), 72 Stat. 260; Sept. 2, 1958, Pub. L. 85-859, title II, Sec. 204(6), (7), 72 Stat. 1429; June 21, 1965, Pub. L. 89-44, title VI, Sec. 601(h), 79 Stat. 155; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1904(b)(8)(F), 1906(a)(42), (b)(13)(A), 90 Stat. 1816, 1830, 1834.)

-MISC1-

AMENDMENTS

1976 - Subsec. (a). Pub. L. 94-455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (b). Pub. L. 94-455, Sec. 1904(b)(8)(F), 1906(a)(42), struck out "4722, 4753, 4804(d)," after "4412,".

1965 - Subsec. (b). Pub. L. 89-44 struck out "4455," after "4412,".

1958 - Subsec. (a). Pub. L. 85-859, Sec. 204(6), excluded persons required to register under subtitle E and persons engaging in a trade or business on which a special tax is imposed by such subtitle.

Subsec. (b). Pub. L. 85-859, Sec. 204(7), struck out references to sections 5802 and 5841 of this title.

Subsec. (b). Pub. L. 85-475 struck out reference to section 4273.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(8)(F) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(42), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

↓  
-HEAD-

Sec. 7271. Penalties for offenses relating to stamps

ATF only

-STATUTE-

Any person who with respect to any tax payable by stamps -

(1) Failure to attach or cancel stamps, etc.

Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

(2) Instruments

Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

(3) Disposal and receipt of stamped packages

In the case of any container which is stamped, branded, or marked (whether or not under authority of law) in such manner as to show that the provisions of the internal revenue laws with respect to the contents or intended contents thereof have been complied with, and which is empty or contains any contents other than contents therein when the container was lawfully stamped, branded, or marked -

(A) Transfers or receives (whether by sale, gift, or otherwise) such container knowing it to be empty or to contain such other contents; or

(B) Stamps, brands; or marks such container, or otherwise produces such as stamped, branded, or marked container, knowing it to be empty or to contain such other contents;  
shall be liable for each such offense to a penalty of \$50.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1906(a)(41), 90 Stat. 1830.)

-REFTEXT-

#### REFERENCES IN TEXT

The internal revenue laws, referred to in par. (3), are classified generally to this title.

-MISC2-

#### AMENDMENTS

1976 - Pars. (2) to (4). Pub. L. 94-455 redesignated pars. (3) and (4) as (2) and (3), respectively. Former par. (2), which related to persons who manufactured or imported and sold, or offered for sale, or caused to be manufactured or imported and sold, or offered for sale, any playing card, package, or other article without the full amount of tax being paid, was struck out.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

-CROSS-

#### CROSS REFERENCES

Authorization for action to recover penalty, see section 7401 of this title.

Jurisdiction of district court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial

1976 - Pub. L. 94-455 struck out 'or his delegate' after  
'Secretary'.

-CROSS-

CROSS REFERENCES

Authorization for action to recover penalty, see section 7401 of  
this title.

Jurisdiction of district court of the United States of action for  
penalty, see section 1355 of Title 28, Judiciary and Judicial  
Procedure.

↓  
-CITE-

26 USC Sec. 7270

ACTY - CD > 530

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter B - Other Offenses

-HEAD-

Sec. 7270. Insurance policies

-STATUTE-

Any person who fails to comply with the requirements of section  
4374 (relating to liability for tax on policies issued by foreign  
insurers), with intent to evade the tax shall, in addition to other  
penalties provided therefor, pay a fine of double the amount of the  
tax.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Oct. 4, 1976, Pub. L.  
94-455, title XIX, Sec. 1904(b)(5)(A), 90 Stat. 1815.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 substituted 'liability for tax on policies  
issued by foreign insurers' for 'the affixing of stamps on  
insurance policies, etc.'.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month  
which begins more than 90 days after Oct. 4, 1976, see section  
1904(d) of Pub. L. 94-455, set out as a note under section 4041 of  
this title.

-CROSS-

CROSS REFERENCES

Authorization for action to recover fine, see section 7401 of  
this title.

Jurisdiction of district court of the United States of proceeding  
for recovery or enforcement of fines, see section 1355 of Title 28,  
Judiciary and Judicial Procedure.

-CITE-

26 USC Sec. 7271

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter B - Other Offenses

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter B - Other Offenses

ATF only

-HEAD-

Sec. 7268. Possession with intent to sell in fraud of law or to evade tax

-STATUTE-

Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of \$500 or not less than double the amount of taxes fraudulently attempted to be evaded.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 865.)

-CROSS-

CROSS REFERENCES

Authorization for action to recover penalty, see section 7401 of this title.

Jurisdiction of district court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Penalty for attempt to evade tax, see section 7201 of this title.

-CITE-

26 USC Sec. 7269

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter B - Other Offenses

-HEAD-

Sec. 7269. Failure to produce records

-STATUTE-

Whoever fails to comply with any duty imposed upon him by section 6018, 6036 (in the case of an executor), or 6075(a), or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Secretary who desires to examine the same in the performance of his duties under chapter 11 (relating to estate taxes), shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Oct. 4, 1976, Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), 90 Stat. 1834.)

-MISC1-

AMENDMENTS

316

Cincinnati, Ohio

John Gallagher, Chief  
Automated Collection Branch  
Internal Revenue Service  
P.O. Box 145566  
Cincinnati, Ohio 45214

You are hereby put on NOTICE, that this letter must be filed as a permanent part of my IRS/ITDA/ARMS/AF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.  
Agent's INITIAL \_\_\_\_\_

Certified Mail#Z 501

**CONSTRUCTIVE LEGAL NOTICE OF MISAPPLICATION OF IRC 6331 (LEVY AND DISTRAINT) AND IRC 6201 (ASSESSMENT AUTHORITY), WILLFULLY PROMULGATING, SIGNING, AND RECORDING OF FALSE DOCUMENTS, AND USING *IN REM* PROCESS IN ADMIRALTY WITHOUT VERIFIED CLAIM. I AM HEREBY DEMANDING ALL LIENS, LEVIES FOR TAXES BE LIFTED IMMEDIATELY OR SHOW CAUSE AS TO WHY NOT.**

1. This will serve as constructive legal notice rebutting your unsigned Notice of Levy dated January 23, 1998 where you cite Internal Revenue Code 6331 as your presumed authority. See EXHIBIT A. Any presumed authority under IRC 6331 of the Internal Revenue Code is hereby refuted and rebutted thus legal presumption of evidence of law is removed. \_\_\_\_\_ hereby gives notice of appearance pursuant to Rule E(8) Fed.R.Civ.P.

Your Form 668-W(C) also conveniently omitted paragraph (a) from its body, the paragraph evidencing the very limited application of the "Levy and Distraint" provisions of the 26 USC 6331. See Exhibit A.

"An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution. Accordingly, an appeals representative in his/her conclusions of fact or application of the law, shall hew to the law and the recognized standards of legal construction." 26 CFR 601.106(1) Rule I.  
was denied any due process hearing.

Title 26, Internal Revenue Code, of the U.S. Codes has not been enacted as positive law. United States Code Service (1993) 1 USCS 204 page 52. (EXHIBIT B)

**Positive law.** "Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society." Black's Law Dictionary 5th Edition

**Prima facie.** "At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary." Black's Law Dictionary 5th Edition

Official source for the United States laws is Statute at Large and United States Code is only *prima facie* evidence of such laws. Rover's Inc. v. United States (1959,CA3 Pa) 265 F.2d 615, 59-1 USTC 9371,3 AFTR 2d 1137.

Statutes at Large are "legal evidence" of laws contained therein and are accepted as proof of those laws in any court of United States. Bear v. United States (1985, DC Neb) 611 F Supp 589, affd (1987, CA8 Neb) 810 F.2d 153.

Unless Congress affirmatively enacts title of United States Code into law, title is only *prima facie* evidence of law. Preston v. Heckler (1984, CA9 Alaska) 734 F.2d 1359,34 CCH EPD 34433, later proceeding (1984, DC Alaska) 596 F Supp 1158.

Where title has not been enacted into positive law, title is only *prima facie* or rebuttable evidence of law, and if construction is necessary, recourse may be had to original statutes themselves. United States v. Zuger (1984, DC Conn) 602 F Supp 889, affd without op (1985, CA2 Conn) 755 F.2d 915, cert den and app dismd (1985) 474 US 805, 88 L Ed 2d 32, 106 S Ct 38.

Even codification into positive law will not give code preference where there is conflict between codification and Statutes at Large. Warner v. Goltra (1934) 293 US 155, 79 L Ed 254,55 S Ct 46; Stephan v. United States (1943) 319 US 423, 87 L Ed 1490, 63 S Ct 1135; United States v. Welden (1964) 377 US 95, 12 L 2d 152,84 S Ct 1082.

United States Code does not prevail over Statues at Large when the two are inconsistent. Stephan v. United States(1943) 319 US 423, 87 L Ed 1490, 63 S Ct 1135; Peart v. The Motor Vessel Bering Explorer(1974, DC Alaska) 373 F Supp 927.

Although United States Code establishes *prima facie* what laws of the United States are, to extent that provisions of United States Code are inconsistent with Statues at Large, Statues at Large will prevail. Best Food,Inc. v. United States(1965) 37 Cust Ct 1, 147 F Supp 749.

Where there is conflict between codification and Statues at Large, Statues at Large must prevail. American Export Lines,Inc. v. United States(1961) 153 Ct Cl 201, 290 F. 2d 925; Abell v. United States(1975) 207 Ct Cl 207, 518 F. 2d 1369, cert den(1976) 429 US 817, 50 L Ed 2d 76, 97 S Ct 59.

Internal Revenue Code construction to Statues at Large must be by individual section and subsection since each section and subsection is derived from their own set of Statues at Large. pamphlet, Joint Committee on Taxation,"Derivations of Code Sections of the Internal Revenue Codes of 1939 and 1954(JCS-1-92), January 21, 1992, U.S. Government Printing Office. United States v. Wodtke

You are hereby put on NOTICE, that this letter must be filed as a permanent part of my IRS/TDA/AMS/RMF 23C record. If such record(s) have/have been deleted or substituted, this demand still applies. Agent's INITIAL \_\_\_\_\_

(1985,ND Iowa)627 F Supp 1034, 86-2 USTC 9669,57 AFTR 2d 86-1334, affd(1988,CA8 Iowa) 871 F.2d 1092.

Accordingly 6331(a) was derived from the 1954 code, which was derived from 3310, 3660, 3690, 3692, 3700, of the 1939 code. (Joint Committee on Taxation, Derivations of Code Sections of the 1939 and 1954 code, 1992, U.S. Government) See Exhibit C.

Section 3310 is derived from 3185 of the Revised States of 1874 (R.S. 1874) and regards timing of returns and does not refer to types of taxes authorized to be collected. See Exhibit D.

Section 3660 Statue at Large was enacted on June 6, 1932, vol. 47 page 287 chapter 209, Act 1105 and was amended on May 10, 1934, vol. 48, page 758, chap. 277, act sect. 510 , and deals with jeopardy assessment and does not refer to the type of taxes authorized to be collected. See Exhibit E.

Section 3690 was derived from R.S. Statues of 1974 sec. 3187 and is titled "Taxes collectible by distraint". The actual Statue at Large enacted by Congress which reveals conclusive Congressional intent as to taxes authorized to be collected by levy and distraint was enacted on July 13, 1866 and refers only to taxes on cotton and distilled spirits.(See pages 98,& 106 of the Act attached, Chapter 184, Section 9, vol. 14). There has not been an amending Statue at Large to this date changing the intent of Congress. See Exhibit F.

Section 3692 was derived from 3188 of the R.S. of 1874 and is titled "Mode of Levying Distraint" and does not refer to the type of taxes authorized to be collected. See Exhibit G

Section 3700 was derived from 3196 of the R.S. 1874 and is titled "When real estate may be sold to satisfy taxes" and does not refer to the type of taxes authorized to be collected. See Exhibit H

Section 6331(b) is derived from 3690, 3692, and 3700, of the 1939 code which has already been discussed above.

Clearly, the only Statue at Large which identifies the type of taxes which are authorized to be collected by levy and distraint are taxes on cotton and distilled spirits per the Act enacted Congress in 1866 and referred to in the paragraph above regarding 3690 of the 1939 code. is not involved in the business of cotton or distilled spirits.

In complete harmony with the fact that taxes on cotton and distilled spirits are the only taxes authorized to be collected by levy and distraint under IRC 6331 are the implementing code of Federal Regulations, CFR, published by the U.S. Government printing office. Please refer to page 840 of the CFR index. The implementing regulation for IRC 6331 is Title 27 Part 70.161, which is under the Bureau of Alcohol, Tobacco, and Firearms. See Exhibit I.

2. Since the IRC is subject to the provisions of the Uniform Commercial Code ( See Senate Report 1708) you must have a valid self-assessment contract in order to move against legally. You have failed to state a claim under Rule 9(h) of the Fed. R. Civ. P. under which a remedy [ by arrest, attachment and/or garnishment ] can be granted.



Federal system of taxation is based upon *voluntary* assessment and payment, *not upon distraint*. Flora v. United States (1960) 362 US 145, 4 L Ed 2d 623, 80 S Ct 620, 60-1 USTC sec. 9347, 5 AFTR 2d 1046, reh den 33362 US 972, 4 L Ed 2d 902, 80 S Ct 953.

The IRS assessment authority rests in IRC 6201. Legal Presumption of lawful authority of IRC 6201 is hereby refuted and rebutted.

IRC 6201 is derived from 3182 of the R.S. of 1874. The types of taxes authorized are described in Statue at Large enacted on December 24, 1872, chap. 13, sec.2, vol. 17, page 402 which clearly describes authorized taxes only on tobacco and distilled spirits. is not involved in the business tobacco and distilled spirits. There has been no amending Statue at Large to date that changes the intent of Congress.

Again, the CFR index is in complete harmony as the implemeting regulation for 6201 is Title 27 CFR Part 70, Bureau of Alcohol, Tobacco, and Firearms. See Exhibit J.

3. Uniform Commercial Code 1-103. "Unless displaced by the particular provisions of this act, the principles of law and equity, including the law and equity, including the law merchant [ADMIRALTY brought ashore in the Federal Rules of Civil Procedure] and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions." It is essential to the creation of a contract that there be a mutual or reciprocal assent.

You are hereby given constructive legal notice that [redacted] has never signed, nor given any consent of assent to an assessment contract. Nor has [redacted] signed any form, document, or agreed with any document proffered as an alleged tax liability pertaining to him and has "Refused for Fraud" [per Ohio Revised Code 1311] all such presentments to date.

4. No tax liability exists "Where there is no assessment". No FORM 23-C (pertaining to [redacted]) has ever been furnished in answer to his FOIA requests and as required in 26 USC 6203 "upon request". See EXHIBIT K. No FORM 2162 (pertaining to [redacted]) has ever been furnished in answer to his FOIA requests and as required in 26 USC 6203 "upon request". See EXHIBIT L. No FORM 813, SCREEN 040 (pertaining to [redacted]) has ever been furnished in answer to his FOIA request and as required in 26 USC 6203 "upon request". See EXHIBIT M. No "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT" (pertaining to [redacted] or other evidence of 'assessment' (pertaining to [redacted]) has ever been furnished in answer to his FOIA requests and as required in 26 USC 6203 "upon request". See EXHIBIT N. In addition, [redacted] has found through FOIA requests that no FORM 5546 or FORM 8288 pertaining to him could be found. See EXHIBITS O and P..

Should you continue with your illegal actions under color of law, you will be asked during discovery proceedings in a cross-libel action against you personally and all the real parties of interest and in interest, to produce the signed assessment certificate which must be signed by a duly appointed assessment officer.

You are hereby put on NOTICE, that this letter must be filed as a permanent part of my IRS/FOIA/AMSI/IF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies. Parent's INITIAL \_\_\_\_\_

It is sincere belief that your agency and every individual from whom he has received correspondence regarding this matter is acting in a manner that suggests "Fraudulent misrepresentations" as referred to in 18 USC 1341 by issuing "deceitful statements of half-truths or concealment of material facts." U.S. v. McCoy (1980, MD Fla) 492 F Supp 540.

5. "Substitute for Return" file has several illegal entries. They are as follows : (a) 533 and 532 activity codes which designate manufacturer of truck, bus, chassis, and body; and manufacturer of pistols and revolvers, respectfully. See Exhibit Q. is not involved in any way with either business. (b) Form 4549A-CG which is for Coast Guard use only. See Exhibit R. is not in any way involved with the Coast Guard. (c) Forms 5344 and 720 are for excise taxable activity only. See Exhibit S. is not involved in any kind of excise activity. (d) Form 1040 was filled out by Mary Sue Suddendorf, GS-7. See Exhibit T. These forms must be filled out by a GS-9 or above. (e) Blocking codes from 000 to 005 which all stand for Employee Plans Master File. See Exhibit U. does not have any employees. (f) 3 digit CP designations which are for Business Master File use only. See Exhibit V. is not involved in a commercial business of any kind. (g) The use of a 1040 Form is for Virgin Islands citizens only. See Exhibit W. is not a Virgin Islands citizen. (h) The use of the term or designation of as a Tax Protestor. See Exhibit X. This is an unlawful designation. (i) Blocking code of 200. This stands for a nontaxable 1040. See Exhibit Y. Why then has there been a levy placed on

6. Individual Master File for the years 1992 to 1998 has several questionable entries. They are as follows and see EXHIBIT Z and attached letter: (a) Each tax year begins with a Transaction Code of 150. A Transaction Code of 150 relates to the tax liability assessed on a U.S. Self-Employment Tax Return-Virgin Islands, Guam, American Samoa. has never been self-employed in the Virgin Islands, Guam, or American Samoa. (b) Blocking codes from 000 to 040. All these designations stand for Employee Plans Master File. does not have any employees. (c) Blocking code of 405. This designates excise tax (including child support). is not involved in any excise activity. (d) Blocking code of 684. This designates a non-taxable political action committee. is not involved in any political action committee. (e) Blocking code of 200. This designates a non-taxable 1040. Why then has there been a levy placed on

7. The Government and the Internal Revenue Service have refused to provide a specific answer to the question of what parts of the Internal Revenue Code consist of the National Prohibition Act. has found that the sections of the Code were formally Title 3 of the National Prohibition Act. The National Prohibition Act was repealed in 1933, and extended to the Virgin Islands and Puerto Rico in 1935, then reclassified to Title 26 in 1939, as evidenced by 48 USC 1402 a copy of which is incorporated herein as EXHIBIT AA.

8. has received new evidence supporting the facts cited in the above paragraph in a letter from the DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, WASHINGTON D.C. 20224. The letter was signed by Thomas Marusin, Director of Information, Badge No.50-04672. The said letter states, in part, "We have been advised by the Bureau of Alcohol, Tobacco and Firearms (BATF) that all sections of the Internal Revenue Code (IRC) dealing with issues formally in the NPA (National

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

Prohibition Act) are the responsibility of the BATF, these issues are generally applicable only to businesses, not individual taxpayers." (Emphasis in the original) A copy of the said letter is attached hereto and incorporated herein as EXHIBIT BB.

9. Since the IRS has raised the issue of "Income", we must define "Income". Section 63 is the code section that the IRS claims establishes what "taxable income" is. It states "Taxable income defined; (A) IN general. Except as otherwise provided in subsection(b). For purposes of this subtitle, the term "taxable income" means gross income minus the deductions allowed by this chapter (other than the standard deduction)."

10. Now we have the issue of "gross income." The IRS claims that "gross Income" is defined in Section 61 and that anything that anyone receives that is listed in Section 61 is "taxable income" and must be reported. That is the total argument the IRS makes in its demands for "income taxes."

11. In 1895 the Supreme Court ruled in **Pollock v. Farmers Loan & Trust Co.** that it is unconstitutional to impose an income tax on the interest and dividends. Both of those items are listed in section 61. The Supreme Court further ruled in **Stanton v. Baltic Mining Co.** in 1916, that no new power of taxation was conferred by the 16th Amendment.

12. If income taxes could not constitutionally be imposed on items listed in section 61 before the 16th Amendment, and no new power was conferred by the 16th Amendment, it would appear that section 61 cannot be constitutionally applied today. We have to look at what the law shows for the proper application of section 61.

13. The 1954 version of the Code has the following footnote after section 61: "Source: Sec. 22(a), 1939 Code, substantially unchanged." Researching the source of a law is very important to determining how that law is to be properly applied under law. Without a review of the source materials it is impossible to accurately determine how a law is intended to be applied, and the court, of course, only has authority over the law, under, and to the extent of, its original intent. It is very important to understand how section 22 was implemented and applied in 1939 in order to understand how section 61 is supposed to be applied today. The two sections (22&61) are inextricably linked in such relevant fashion that the answer as to how section 61 can be applied Constitutionally, given the Pollock decision, can only be found by a thorough examination of this relationship.

14. The CFR INDEX PARALLEL TABLE shows that 26 USC section 22 (1939 I.R.C.) corresponds to 26 CFR Part 519. The next table reveals what Part 519 is: "CHAPTER 1-INTERNAL REVENUE SERVICE DEPARTMENT OF THE TREASURY (Parts 500 to 529) SUBCHAPTER G - Regulations Under Tax Conventions."

15. Part 519 is the Canadian Tax Treaty. What section 61 actually defines, under the letter of the law; are the sources of taxable income under the foreign tax treaty with Canada. It does not define the domestic sources of taxable income. The countries shown in the table followed by an "...(x)" are the countries with whom the US has current tax treaties. However, the Canadian Tax Treaty expired in 1993. Part 519 is now shown as reserved for future use and section 61 no longer has any legitimate application within Title 26 USC for the purpose of defining gross income, except perhaps, under other tax treaties with foreign countries.

<p>You are hereby put on NOTICE, that this letter must be filed as a component part of my IRS/TDA/AMS/IMF 23C record. If such record(s) have been deleted or substituted, this demand still applies. Agent's INITIAL _____</p>
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16 TREASURY ORDER 120-01, June 6, 1972, states : "The purpose of this Order is to transfer, as specified herein, the functions, powers and duties of the Internal Revenue Service arising to laws relating to alcohol, tobacco and firearms and explosives (including the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service) to the Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Alcohol, Tobacco and Firearms (hereinafter referred to as the Director). The Director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary)". See Exhibit CC.

is not involved in the business of alcohol, tobacco or firearms.

17. 18 USC 1001. "Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes false or fictitious of fraudulent statements or representations, or makes or uses false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

18. DEMAND IS HEREBY MADE THAT ANY AND ALL "INSTRUMENTS" ISSUED OR THREATENED TO BE ISSUED BY YOUR AGENCY THAT ARE ALLEGEDLY BASED ON THESE ALLEGED "ASSESSMENTS" BE REMOVED AND ABATED FROM YOUR RECORDS AND FROM THE PUBLIC RECORDS OF HAMILTON COUNTY, OHIO OFFICE OF THE CLERK OF THE COURT WITHIN 10 DAYS OF THE RECEIPT OF THIS NOTICE SINCE ALL PRESUMPTION OF CORRECTNESS OF THE ALLEGED TAX LIABILITY HAS BEEN REFUTED AND REBUTTED UTILIZING CREDIBLE EVIDENCE OF THE SUBSTANTIVE LAW WITH RESPECT TO IRC 6331, 6321, 6201, 6301, and 7323. THE "LEGAL" PROCEDURE IS HERE REMOVED FOR REASONS STATED IN ITEMS 1-16 ABOVE and especially since no verified, sworn affidavit as any basis for a request for an *in rem remedy* has ever been presented into the proceedings against

19. Failure to dismiss, abate, and remove all process based on the false representations listed above will establish presumptive legal evidence in an appropriate court of law in a MESNE PROCESS in ADMIRALTY (proceeding will continue in Admiralty pursuant to 28 USC 2461) that any and all IRS agents who are party to this fraudulent proceeding *in rem* and without the necessary evidence under Fed. R. Civ. P., have knowingly and willfully promulgated, signed, publicly recorded, and mailed through the U.S. Mail, without statutory or regulatory authority, a series of fraudulent and false presentments and other documents citing sections not related to the instant case applicable to (1998 Taxpayer Bill of Rights).

20. Failure to rescind and abate all proceedings with respect to will establish presumptive legal evidence, presentable in an appropriate court of law, in ADMIRALTY, that any and all agents whose names appear on documents referred to in many letters and requests to and from your agency have willfully and knowingly conspired, under color of law, to unlawfully deprive of his United States of America Constitutional rights to life, liberty, and property and to due process under the law by proceeding *in rem* under IRC 7323 in an attempt to obtain personam jurisdiction and ADMIRALTY remedies with no verified complaint or evidence of damage upon which relief can be granted.

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

21. All such parties will be actionable in a cross-libel suit where will seek remedies under 28 USC 1333(1) and other applicable sections of 18 USC and 28 USC as remedies to the damages inflicted in a court of record by slandering and clouding the titles to property and rights to property of \_\_\_\_\_ without evidence of a verified complaint or affidavit as required in ADMIRALTY proceeding *in rem* or *quasi in rem* .(28 USC 2461)

22. I \_\_\_\_\_ have asked for a collection appeal request using IRS form 9423 dated June 24, 1999. The appeal was sent certified mail# Z420872667 to the Office of Appeals, Internal Revenue Service, P.O. Box 1579, Cincinnati, Ohio 45201. See Exhibit DD.

23. I \_\_\_\_\_ hereby demand all levy action be stopped immediately

24. I \_\_\_\_\_ hereby demand a return of all monies that have been unlawfully extracted from \_\_\_\_\_ paycheck from January 23, 1998 to present.

25. I \_\_\_\_\_ have been studying the sections of the Internal Revenue Code, and corresponding sections of the Code of Federal Regulations, and the United States Statutes at Large. To the best of my ability and understanding I have found the Internal Revenue Service has committed a number of illegalities. I am submitting this document, with exhibits attached, to extricate myself from the phantom dilemma caused by computer fraud that the Internal Revenue Service has placed upon me.

I, \_\_\_\_\_, am rebutting/challenging all Internal Revenue Service documents with best evidence that pertains to my particular case.

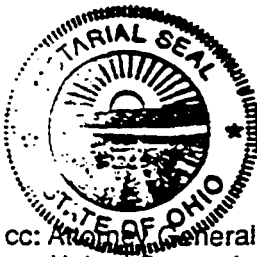
26. If you have any documented proof to the contrary, please send it to \_\_\_\_\_ David, \_\_\_\_\_ immediately.

The undersigned, being duly sworn to truth, furnish the above information in affidavit form as evidence of his state of mind, frame of mind, reliance and belief and further state the above to be true, correct and complete to the best of his knowledge.

Sincerely,

Sworn and attested before me on this 7<sup>th</sup> day of July 1999.

Witness my hand and official seal.



CAROLYN N. TURNER  
Notary Public, State of Ohio  
My Commission Expires Oct 15, 2001

Signature of Notary

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

8

You are hereby put on NOTICE, that this letter must be filed as a permanent part of my IRS/DOJ/ATM/GIME 2001 records. If such records have been deleted or substituted, this demand still applies.



Diversified  
Collection  
Services, Inc.

P.O. Box 4016, Alameda, CA 94501-0416

Toll free: (800) 866-5317

June 28, 2000

File #7-168

### DELINQUENT DEBT NOTICE

Claim of: State of Louisiana Department of Revenue  
Current Balance: \$2041.11  
Account No:

Dear \_\_\_\_\_

This letter serves as formal notice that your delinquent debt has been referred to Diversified Collection Services, Inc. (DCS, Inc.) for immediate collection.

Your account will be scheduled for disposition in thirty (30) days from the date of this letter. If you wish to register any claims or disputes, or wish to voluntarily retire your obligation, you should do so during this period. Keep in mind that we are entitled to use, and we intend to use, all approved means at our command to collect debts which have been referred to us. Federal law requires that we inform you that this is an attempt to collect a debt and any information obtained will be used for that purpose.

Our client may also use legal means to effect collections, including attorney referral and litigation. In the event a judgment is rendered against you, enforcement of such judgment may affect your real or personal property, including your income and wages, notwithstanding the addition of court costs and attorney fees.

~~The balance stated above reflects the latest balance reported by our client. Since our client last reported your balance, you may have accrued additional interest or fees. If you choose to pay your obligation in full at this time and there are additional interest or fees, you will be held responsible for the additional amount.~~

You may avoid these procedures by contacting Hal Cox at 1-800-866-5317, or you may send the balance of your account made payable to State of Louisiana Department of Revenue, directly to DCS, Inc., P.O. Box 4016, Alameda, CA 94501-0416 for processing. Your social security number should be listed on the check to insure proper crediting.

Sincerely,  
DCS, Inc.  
Hal Cox

**SEE THE REVERSE SIDE FOR THE FEDERAL VALIDATION NOTICE AND OTHER  
REQUIRED STATE COMPLIANCE INFORMATION.**

LR001/D200/TX/DELINQUENT NOTICE BEFORE CONTACT

*A Value Driven Company With A Commitment To Excellence*

## IMPORTANT NOTICE OF RIGHTS

*If this is the first notice you receive, be advised that:*

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE, THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

*We are required under state law to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.*

**Colorado** – Colorado Law requires that we notify you that collection agencies are regulated by the Collection Agency Board in the Department of Law, located at State Services Building, 1525 Sherman Street, 5th Floor, Denver, Colorado 80203. Payments on the debt are not to be sent to the board.

Any Colorado resident may notify our company to cease all telephone calls at their place of employment, refuse to pay a debt, and/or request that we cease all communications. Should you refuse to pay a debt or request all communication cease, we may still invoke specific remedies permitted by law to collect this debt.

**Maine** – Maine residents may contact our office by telephone at (800) 866-5317 between the hours of 9:00 a.m. to 6:00 p.m. PST.

**Massachusetts** – Massachusetts residents may contact our office by telephone at (781) 331-0376 between the hours of 9:00 a.m. to 6:00 p.m. PST. The business address is: 67 Myrtle Street, E. Weymouth, MA 02189. Massachusetts Law requires that we inform you:

### NOTICE OF IMPORTANT RIGHTS

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN (10) DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN (7) DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE COLLECTION AGENCY.

**Minnesota** – Minnesota Law requires that we inform you that "This collection agency is licensed by the Minnesota Department of Commerce."

**New York** – Diversified Collection Services, Inc. is licensed to operate in New York City under License Number 0958746.

**North Carolina** – Diversified Collection Services, Inc. is licensed to operate under Permit number 3142.

**Wisconsin** – Wisconsin Law requires that we inform you that "This collection agency is licensed by the Office of the Administrator of the Division of Banking, P.O. Box 7876, Madison, WI 53707."

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Headquarters  
Diversified Collection Services, Inc.  
555 McCormick Street  
San Leandro, CA 94577

**Agreement on Coordination of Tax Administration**

**Section 1. Introduction**

1.1 This agreement provides the basis for coordination of Federal and State tax administration. The parties to this agreement will explore and adopt mutually acceptable techniques and modes of exchange most beneficial to improved tax administration with the least possible interruption of their respective operating routines and with strict adherence to laws, regulations, and rules for protecting the confidentiality of exchanged information.

1.2 This agreement may be supplemented by an implementing agreement, prescribing the nature, quantity and mechanics for the continuous exchange of tax information, including criteria and tolerance for selection of tax returns and return information as well as other cooperative activities. If an implementing agreement has been approved, subsections preceded by asterisks(\*) will have corresponding provisions in the implementing agreement which should be consulted for more detailed information about specific working arrangements and operational procedures for the exchange of tax information authorized by this agreement. All provisions contained in implementing agreements must be consistent with the terms and conditions in this agreement. In any situation where a conflict arises between the provisions of this agreement and the implementing agreement, the terms of this agreement will govern.



Section 2. Definitions

For purposes of this agreement, the following definitions apply:

2.1 Agency. The term "Agency" means the New York State Department of Taxation and Finance.

2.2 IRS. The term "IRS" means the Internal Revenue Service, U.S. Department of the Treasury.

2.3 State Audit Agency. The term "State Audit Agency" is defined in the same manner as provided in section 6103(d)(2)(B) of the Code. State Audit Agency means the Office of the State Comptroller.

2.4 State. The term "State" means the State of New York.

\*2.5 Agency Representative. The term "Agency representative" means an Agency officer or employee designated in writing by the head of the Agency, to the District Director(s) at Albany, New York as an individual who is to inspect or receive Federal returns or Federal return information on behalf of the Agency as provided by section 6103(d) of the Code, but only so long as the duties and employment of such officer or employee require access to Federal returns and Federal return information for purposes of State tax administration.

\*2.6 IRS Representative. The term "IRS Representative" means officer or employee of the IRS who has been designated in writing to the head of the Agency by the District Director(s) at Albany, New York as an individual who is to inspect or receive State returns or State return information on behalf of IRS, but only so long as the duties and employment of such officer or employee require access to State returns and return information for the purpose of Federal tax administration.

2.7 Federal Return. The term "Federal Return" is defined in the same manner as provided in section 6103(b)(1) of the Code.

2.8 Federal Return Information. The term "Federal Return Information" is defined in the same manner as provided in section 6103(b)(2) of the Code. However, "Federal Return Information" does not include that information in the hands of the State which is obtained by means wholly from sources independent from the IRS.

2.9 State Return. The term "State Return" means any tax or information return, declaration of estimated tax, or claim for refund required by or provided for or permitted under the provisions of the internal revenue laws, or related statutes, of the State, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of, the return so filed.

2.10 State Return Information. The term "State Return Information" means a taxpayer's identity, the nature, source, or amount of his/her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's State return was, is being, or will be examined or subject to other investigation or processing, or any other data received by, recorded by, prepared by, furnished to, or collected by the Agency with respect to a State return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under the internal revenue laws or related statutes, of the State, for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.

2.11 Inspection. The term "inspection" means any examination of a return or return information.

2.12 Disclosure. The term "Disclosure" means the making known to any person in any manner whatever a return or return information.

2.13 State Tax Administration. The term "State Tax Administration"

(a) means-

(i) the administration, management, conduct, direction, and supervision of the execution and application of the revenue laws, or related statutes of the State, and

(ii) the development and formulation of State tax policy relating to existing or proposed intern revenue laws, or related statutes, of the Stat and

(b) includes assessment, collection, enforcement, litigation, and statistical gathering functions under such laws or statutes.

2.14 Code. The term "Code" means the Internal Revenue Code of 1986, as amended.

Section 3. Disclosure of Federal Returns  
and Federal Return Information

3.1 Pursuant to the laws of the State, the Agency is charged with the responsibility for the administration of State taxes imposed on:

Corporate Franchises: Agriculture Cooperatives, Banks

Income: Individuals, Estates and Trusts

Corporations: Franchises (Income and Other Measures)

Unincorporated Business Income

Sales and Use

Alcoholic Beverages

Cigarettes

Gasoline and Diesel Fuels

Motor Carriers (Highway Use)

Estates and Gifts

Insurance Companies Premiums

Public Utilities: Franchises, Utility Services

Document Recording: Stock Transfers

Real Estate Transfer (Article 31)

Federal returns and Federal return information (whether originals, paper copy, photocopy, microfilm, magnetic media, or any other form) received from IRS will be used for the purpose of, and only to the extent necessary in, State tax administration.

3.2 This agreement constitutes the requisite authorization pursuant to section 6103(d)(1) of the Code for IRS to disclose to, and permit inspection by, an Agency Representative of Federal returns and Federal return information relating to taxes imposed by chapter(s) 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 45, 51, 52, and 36 (D) of the Code.

\*3.3 Upon the occurrence of any change in employment, duties, or other relevant matters affecting an Agency Representative's right of access to Federal returns and Federal return information or status as Agency Representative, the head of the Agency shall promptly advise in writing the District Director(s) at Albany, New York that such individual is no longer an Agency Representative.

3.4 An Agency Representative to whom a Federal return or Federal return information has been disclosed, may thereafter disclose such return or return information:

- (a) to another employee of the Agency for the purpose of and only to the extent necessary in the administration of the State tax laws for which the Agency is responsible;
- (b) to a person described in section 6103(n) of the Code or to any officer or employee of such person, solely for the purpose of State tax administration and in a manner consistent with applicable regulations, published rules or procedures, or written communications;
- (c) to a legal representative of the Agency personally and directly engaged in, and solely for use in, preparation for a civil or criminal proceeding (or investigation which may result in a proceeding) before a State administrative body, grand jury, or court in a matter involving State tax administration, if the returns and return information satisfy one or more of the criteria established in section 6103(h)(2)(A), (B) or (C);
- (d) to an officer or employee of the State audit agency for the purpose of and only to the extent necessary in making an audit of the State tax agency.

3.5 A Federal return or Federal return information may be disclosed in a judicial or administrative proceeding pertaining to State tax administration, but only if the same criteria established in section 6103(h)(4)(A), (B) or (C) are met.

3.6 Notwithstanding any other provision of this section, IRS will not disclose a Federal return or Federal return information under this section if such disclosure would identify a confidential informant or seriously impair a Federal civil or criminal tax investigation. The Agency agrees that neither it nor its legal representatives will make any further use or disclosure of a Federal return or Federal return information disclosed to an Agency Representative by IRS if IRS notifies the head of the Agency in writing that such further use or disclosure would identify a confidential informant or seriously impair a Federal civil or criminal tax investigation. The Agency further agrees that Prior to the disclosure of any Federal return or Federal return information in a State judicial proceeding or to any party other than the taxpayer or his/her designee in a State administrative proceeding as provided by paragraph 3.5 of this agreement, the head or legal representative of the Agency will notify in writing the Service Center or District Director, from whom the return or return information was received, of the intention to make such disclosure. No officer, employee or legal representative shall so disclose a Federal return or Federal return information in such State judicial or administrative proceeding if the Service Center or District Director or other IRS official, within 30 days following receipt of such written notice, informs the head or legal representative of the Agency that such disclosure would identify a confidential informant or seriously impair a Federal civil or criminal tax investigation.

3.7 Additionally, the Agency agrees that it will notify the IRS when, during an audit of the Agency by the State Audit Agency, Federal returns and Federal return information are disclosed to the State Audit Agency and such information is made part of the State Audit Agency's workpapers.

Section 4. Disclosure of State Returns and Return Information

4.1 This agreement constitutes the requisite authorization for the Agency to disclose to, and permit inspection by, IRS Representatives of State returns and State return information for the purpose of, and only to the extent necessary in the administration of the internal revenue laws, or related statutes, of the United States. Any State returns and State return information so disclosed to, or inspected by, an IRS Representative become, in the hands of IRS, "taxpayer return information" as defined by section 6103(b)(2) of the Code and may be redisclosed by IRS only to such persons, for such purposes, and under such conditions as may be prescribed by the Code.

4.2 Nothing in this agreement shall be construed as authority for the Agency to disclose State returns and State return information where such disclosure would be contrary to State law.

\*4.3 Upon the occurrence of any change in employment duties, or other relevant matters affecting an IRS representative's right of access to State returns and State return information or status as an IRS Representative, the District Director(s) at Albany, New York shall promptly advise the Agency in writing that such individual is no longer an IRS Representative.



Section 5. Other Cooperative Activities

\*5.1 Subject to the restrictions and other provisions of this agreement and the availability of enforcement resources, the Agency and IRS will develop cooperative return selection and examination programs with the objective of avoiding unnecessary duplication of Federal and State audit coverage.

\*5.2 Information other than Federal or State returns and return information, which the Agency and IRS may deem to be relevant or useful to the administration of State and Federal tax laws, may be exchanged pursuant to arrangements made by the Agency and IRS.

\*5.3 In addition to the exchange of tax and other information, the Agency and IRS will, to the extent feasible, extend to each other assistance in other tax administration matters. This may include such activities as taxpayer assistance, stocking tax forms for the public, training of Personnel, special statistical studies and compilations of data, development and improvement of tax administration systems and procedures, and such other activities as may improve tax administration.

Section 6. Safeguards and other Requirements

6.1 As an express condition for the inspection and disclosure of Federal returns and Federal return information, the Agency agrees to comply with the safeguards and requirements prescribed by section 6103(p)(4) of the Code and any implementation of such safeguards and requirements as may be provided by regulations and published procedures including:

- (a) furnishing an annual report to the IRS describing the procedures established and utilized by the agency for ensuring the confidentiality of such returns and return information;
- (b) permitting IRS to review the extent to which the Agency is complying with the requirements of this paragraph; and
- (c) informing in writing all Agency Representatives and other persons to or by whom disclosure or inspection of Federal returns or Federal return information is authorized of the criminal penalties and civil liability provided by sections 7213 and 7431 of the Code for a disclosure of such returns and return information which is unauthorized by the Code.

6.2 To the extent consistent with Federal law IRS will accord State returns and State return information confidentiality safeguards comparable to those required of the Agency pursuant to this agreement.

6.3 Processing of Federal returns and Federal return information received by the Agency from IRS in the form of microfilms, photoimpressions, magnetic media or other format (including reformatting or reproduction, or conversion to magnetic media, punch cards, or hard copy printout) and transmission and storage of such Federal returns or Federal return information by or on behalf of the Agency may be performed by either Agency owned and/or operated computer facilities, or State shared facilities or by any other person.

described in section 6103(n) of the Code. In those cases where such facilities used by the State Agency are shared with other State agencies or operated by any other person described by section 6103(n) of the Code, the Agency will insure the confidentiality of the Federal returns and Federal return information provided to such shared facility or person. As part of this responsibility the terms of any contract or agreement between the Agency and a shared computer facility or other person to whom Federal return or Federal return information is or may be disclosed for a purpose described in this subsection, will provide, or will be amended to provide, that such person, and officers and employees of the person, will comply with the applicable safeguard conditions contained in regulations, published rules or procedures, or written communications.

6.4 Because some taxpayers may be unaware that Agency tax officials are authorized under Federal law to obtain federal returns and Federal return information for State tax administration purposes, the Agency will publicize, in a manner satisfactory to IRS, that such returns or return information were obtained pursuant to specific authority granted by the Code. Similar publicity will be provided by IRS, if requested by the Agency, for State tax information furnished IRS pursuant to State law.

Section 7. Limitations

7.1 Pursuant to the provisions of section 6103(p)(2) of the Code, and of State law, if any, IRS and the Agency may charge each other a reasonable fee for furnishing returns and return information under the terms of this agreement. IRS and the Agency may agree not to charge each other for the costs of routine reproduction of returns and return information mutually exchanged.

7.2 Under no circumstances will the Agency permit any Federal return or Federal return information to be inspected by, or disclosed to an individual who is the chief executive officer of the State or any person other than one described in section 3 of this agreement.

7.3 Notwithstanding any other provision of this agreement, IRS will not disclose or make known in any manner whatever to any person described in section 3 of this agreement --

(a) any original, copy, abstract of any return, payment, or registration made pursuant to chapter 35 of the Code (relating to taxes on wagering);

(b) any record required for making any such return, payment, or registration made or required pursuant to chapter 35 which IRS is permitted by the taxpayer to examine or which is produced pursuant to section 7602 of the Code (relating to the examination of books and witnesses);

- (c) any information obtained by the exploitation of any such return, payment, registration, or record made or required pursuant to chapter 35.

7.4 Notwithstanding any other provision of this agreement, IRS will not disclose or make known in any manner to any person described in section 3 of this agreement information which was obtained pursuant to a tax convention between the United States and a foreign government.

Section 3. Officials to Contact for Obtaining Information

3.1 Requests by the Agency for Federal returns or Federal return information should be made to the officials named in the implementing agreement or to the officials below if an implementing agreement has not been executed.

- (a) Requests by the Agency for Federal return information in magnetic media mode should be made to the District Director at Albany, New York who will be responsible for coordinating the requests with the National Office.
- (b) Requests for physical inspection or copying of Federal returns, or requests for audit abstracts and reports pertaining to such returns, showing addresses within the State should be made to the Director at Albany, Brooklyn, Buffalo, or Manhattan District or the Andover or Brookhaven Service Centers, who will be responsible for making the proper arrangements for inspection or copying.

(c) Requests by the head of the Agency or up to two of his/her designees for Federal returns of taxpayers or Federal return information relating to taxpayers showing addresses outside the State should be made to the District Director at Albany, New York.

8.2 Requests by authorized officers and employees of the IRS for inspection or copying of State returns and State return information should be made to the officials named in the implementing agreement supplementing this agreement.

#### Section 9. Termination or Modification of Agreement

9.1 The provisions of the agreement are subject to provisions of the Code, implementing regulations, published procedures, and to the provisions of State statutes and regulations. This agreement may be terminated or modified at the discretion of IRS or the Agency due to changes in Federal or State statutes and regulations or whenever in the administration of Federal or State laws that action seems appropriate.

9.2 Any unauthorized use or disclosure of Federal returns or Federal return information furnished pursuant to this agreement or inadequate procedures for safeguarding the confidentiality of such returns and return information, also constitutes grounds for termination of this agreement and the exchange of information thereunder, subject to the rights of administrative appeal as provided by regulations prescribed by section 6103(p)(7) of the Code.

9.3 Notwithstanding any other provision of this agreement, no Federal return or Federal return information shall be disclosed after December 31, 1978, by IRS to any person described in section 3 of this agreement if the requirements of section 6103(p)(8) of the Code are not met.

APPROVED:

*James W. Wetzler*  
(signature)

James W. Wetzler  
Commissioner  
Department of Taxation & Finance

Signed at New York  
this 2 day of December, 1974.

*Margaret Milner Richardson*  
(signature)

Margaret Milner Richardson  
Commissioner  
Internal Revenue Service

Signed at Washington, D.C.  
this 6 day of February, 1975.



Laurence E. Stevens  
Associate Attorney

State of New York  
Department of Taxation and Finance

W.A. Harriman Campus  
Albany, NY 12227

Telephone  
518-474-3000

Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b) Forcible rescue of seized property

Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than \$500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 855.)

-CROSS-

CROSS REFERENCES

Effective date of this chapter, see section 7851 of this title.

Entry of premises for examination of taxable objects, see section 7606 of this title.

Penalty for refusal to permit entry or examination, see section 7342 of this title.

Period of limitation on criminal prosecution for offense under this section, see section 6531 of this title.

Punishment for assaulting, resisting or impeding certain federal officers and employees, see section 111 of Title 18, Crimes and Criminal Procedure.

-SECFREF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6531, 7601 of this title.

→ CITE-

26 USC Sec. 7213

PS 11

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 75 - CRIMES, OTHER OFFENSES, AND FORFEITURES  
Subchapter A - Crimes  
PART I - GENERAL PROVISIONS

-HEAD-

Sec. 7213. Unauthorized disclosure of information

-STATUTE-

(a) Returns and return information

(1) Federal employees and other persons

It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or



employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i), (1)(6), (7), (8), (9), (10), (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) Other persons

It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) Solicitation

It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) Shareholders

It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(b) Disclosure of operations of manufacturer or producer

Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) Disclosures by certain delegates of Secretary

All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized

disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

(d) Cross references

(1) Penalties for disclosure of information by preparers of returns

For penalty for disclosure or use of information by preparers of returns, see section 7216.

(2) Penalties for disclosure of confidential information

For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 855; Sept. 2, 1958, Pub. L. 85-866, title I, Sec. 90(c), 72 Stat. 1666; Sept. 13, 1960, Pub. L. 86-778, title I, Sec. 103(s), 74 Stat. 940; Oct. 4, 1976, Pub. L. 94-455, title XII, Sec. 1202(d), (h)(3), 90 Stat. 1686, 1688; Nov. 6, 1978, Pub. L. 95-600, title VII, Sec. 701(bb)(1)(C), (6), 92 Stat. 2922, 2923; May 26, 1980, Pub. L. 96-249, title I, Sec. 127(a)(2)(D), 94 Stat. 366; June 9, 1980, Pub. L. 96-265, title IV, Sec. 408(a)(2)(D), 94 Stat. 468, as amended Dec. 28, 1980, Pub. L. 96-611, Sec. 11(a)(2)(B)(iv), 94 Stat. 3574; Dec. 5, 1980, Pub. L. 96-499, title III, Sec. 302(b), 94 Stat. 2604; Dec. 28, 1980, Pub. L. 96-611, Sec. 11(a)(4)(A), 94 Stat. 3574; Sept. 3, 1982, Pub. L. 97-248, title III, Sec. 356(b)(2), 96 Stat. 645; Oct. 25, 1982, Pub. L. 97-365, Sec. 8(c)(2), 96 Stat. 1754; July 18, 1984, Pub. L. 98-369, div. A, title IV, Sec. 453(b)(4), div. B, title VI, Sec. 2653(b)(4), 98 Stat. 820, 1156; Aug. 16, 1984, Pub. L. 98-378, Sec. 21(f)(5), 98 Stat. 1326; Oct. 13, 1988, Pub. L. 100-485, title VII, Sec. 701(b)(2)(C), 102 Stat. 2426; Nov. 10, 1988, Pub. L. 100-647, title VIII, Sec. 8008(c)(2)(B), 102 Stat. 3787; Dec. 19, 1989, Pub. L. 101-239, title VI, Sec. 6202(a)(1)(C), 103 Stat. 2228; Nov. 5, 1990, Pub. L. 101-508, title V, Sec. 5111(b)(3), 104 Stat. 1388-273; July 30, 1996, Pub. L. 104-168, title XII, Sec. 1206(b)(5), 110 Stat. 1473; Aug. 5, 1997, Pub. L. 105-33, title XI, Sec. 11024(b)(8), 111 Stat. 722; Aug. 5, 1997, Pub. L. 105-35, Sec. 2(b)(1), 111 Stat. 1104.)

-MISCI-

AMENDMENTS

1997 - Subsec. (a)(2). Pub. L. 105-35 inserted "(5)," after "(m)(2), (4),".

Pub. L. 105-33 substituted "(15), or (16)" for "or (15),".

1996 - Subsec. (a)(2). Pub. L. 104-168 substituted "(12), or (15)" for "or (12)".

1990 - Subsec. (a)(2). Pub. L. 101-508 substituted "(6), or (7)" for "or (6)".

1989 - Subsec. (a)(2). Pub. L. 101-239 substituted "(10), or (12)" for "or (10)".

1988 - Subsec. (a)(2). Pub. L. 100-647 substituted "(m)(2), (4), or (6)" for "(m)(2) or (4)".

Pub. L. 100-485 substituted "(9), or (10)" for "(9), (10), or (11)".

1984 - Subsec. (a)(2). Pub. L. 98-378 substituted "(10), or (11)" for "or (10)".

Pub. L. 98-369, Sec. 2653(b)(4), substituted "(9), or (10)" for "or (9)".

Pub. L. 98-369, Sec. 453(b)(4), substituted "(7), (8), or (9)"

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE

Section 292(e) of Pub. L. 97-248, as amended by Pub. L. 98-369, div. A, title I, Sec. 160, July 18, 1984, 98 Stat. 696, provided that:

"(1) In general. - The amendments made by this section (enacting this section and amending section 6673 of this title and section 2412 of Title 28, Judiciary and Judicial Procedure) shall apply to civil actions or proceedings commenced after February 28, 1983.

"(2) Penalty. - The amendments made by subsections (b) and (d)(2) (amending section 6673 of this title) shall apply to any action or proceeding in the United States Tax Court which -

"(A) is commenced after December 31, 1982, or

"(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984 (July 18, 1984)."

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6404, 6512, 6656, 7436, 7611 of this title; title 5 section 504; title 28 section 2412.

-CITE-

26 USC Sec. 7431

*See pg 11*

01/26/98

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 76 - JUDICIAL PROCEEDINGS  
Subchapter B - Proceedings by Taxpayers and Third Parties

-HEAD-

Sec. 7431. Civil damages for unauthorized inspection or disclosure of returns and return information

-STATUTE-

(a) In general

(1) Inspection or disclosure by employee of United States

If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions

No liability shall arise under this section with respect to any inspection or disclosure -

(1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of -

(1) the greater of -

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of -

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus  
(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action.

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of -

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions

For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).

(g) Extension to information obtained under section 3406

For purposes of this section -

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(g) (FOOTNOTE 1) Special rule for information obtained under section 6103(k)(8)

(FOOTNOTE 1) So in original. Probably should be "(h)".

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

-SOURCE-

(Added Pub. L. 97-248, title III, Sec. 357(a), Sept. 3, 1982, 96 Stat. 645; amended Pub. L. 98-67, title I, Sec. 104(b), Aug. 5, 1983, 97 Stat. 379; Pub. L. 105-34, title XII, Sec. 1205(c)(2), Aug. 5, 1997, 111 Stat. 998; Pub. L. 105-35, Sec. 3(a)-(d)(4), (6), Aug. 5, 1997, 111 Stat. 1105, 1106.)

# United States District Court

SEP 22 1999

Western DISTRICT OF North Carolina

UNITED STATES OF AMERICA

U. S. DISTRICT COURT  
W. DIST. OF N. C.

v.

## CRIMINAL COMPLAINT

CASE NUMBER: 3:99m 198

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about October 19, 1998 in Gaston county, in the Western District of North Carolina defendant(s) did, (Track Statutory Language of Offense)

commit money laundering, that is, knowing that the property involved in a financial transaction represent the proceeds of specified unlawful activity, conduct or attempt to conduct such a financial transaction which in fact involved the proceeds of specified unlawful activity with the intent to promote the carrying on of specified unlawful activity,

in violation of Title 18 United States Code, Section(s) 1956(a)(1)(A)(i)

I further state that I am a(n) Special Agent of the FBI and that this complaint is based on the following facts:  
Official Title

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:

Yes  No

Thomas J. Waldman  
Signature of Complainant

Sworn to before me and subscribed in my presence,

Special Agent  
Federal Bureau of Investigation

September 22, 1999 at Charlotte, North Carolina  
Date City and State

Carl Horn, U.S. Magistrate Judge Carl Horn  
Name & Title of Judicial Officer Signature of Judicial Officer

# FBI FILE FACT SHEET

- The primary function of the FBI is law enforcement.  
The FBI does not keep a file on every citizen of the United States.
- The FBI was not established until 1908 and we have very few records prior to the 1920's.
- FBI files generally contain written reports of FBI investigations of a wide range of matters, including counterterrorism, foreign counter-intelligence, organized crime/drugs, violent crime, white-collar crime, applicants, and civil rights.
- The FBI does not issue clearances or nonclearances for anyone other than its own personnel or persons having access to FBI facilities. Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should write directly to that entity.
- An FBI identification record or "rap sheet" is NOT the same as an FBI "file" - it is simply a listing of information taken from fingerprint cards submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, CJIS Division, Attn: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Each request must have proof of identity which shall consist of name, date and place of birth and a set of rolled-ink fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies, plus payment of \$18.00 in the form of a certified check or money order, payable to the Treasury of the United States.
- If you believe that files exist in one of the FBI field offices, it is incumbent upon you to direct a request to the appropriate office.

FOR GENERAL INFORMATION ABOUT THE FBI,  
CHECK OUT OUR WEBSITE AT  
<http://www.fbi.gov>



U.S. Department of Justice

Federal Bureau of Investigation  
935 Pennsylvania Ave., N.W.

Washington, D.C. 20535-0001

APR 20 2000

Dear Requester:

Your letter asking for records maintained by the FBI concerning yourself is being returned to you. It did not contain all of the items and background information needed by the FBI in order to conduct an accurate search of FBI records. Please provide the following information.

Your Complete Name: \_\_\_\_\_  
First Middle Last

Your Current Address: \_\_\_\_\_  
Number Street

\_\_\_\_\_ City State Zip Code

~~Your Date of Birth:~~ \_\_\_\_\_  
Month Day Year

Your Place of Birth: \_\_\_\_\_  
City State

In addition, we ask that you provide your notarized signature, using the reverse side of this letter or a separate form. In lieu of a notarized signature, you may submit a declaration pursuant to Title 28, United States Code, Section 1746.

The notarized signature or declaration you have already provided is sufficient.

The above information is necessary to conduct an accurate search of FBI records, as well as to ensure that documents are released only to an individual with a right of access to the information. Please feel free to provide any additional information, such as previous addresses, employment, alias, etc., which you believe may assist the FBI in locating the information you seek. Furnishing false information will subject a requester to criminal penalties.

Providing your daytime phone number is not required but could assist the FBI's efforts to promptly respond to your request ( ) \_\_\_\_\_.

Sincerely yours,

Chief  
Freedom of Information-  
Privacy Acts Section  
Office of Public and Congressional Affairs

All attached correspondence must be returned to the FBI with this letter

NOTARIZED SIGNATURE

Your Signature: \_\_\_\_\_  
(To be signed in the presence of a Notary)

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
of the year \_\_\_\_\_.

Signature of Notary: \_\_\_\_\_

Expiration Date of Commission: \_\_\_\_\_

Notary Seal or Stamp

\*\*\*\*\*

DECLARATION

I swear or affirm under penalty of perjury that I am \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Current address \_\_\_\_\_

This declaration is submitted in lieu of my notarized signature pursuant to Title 28, United States Code (U.S.C.), Section 1746.

I certify that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18, U.S.C., Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that knowingly and willfully requesting or obtaining any record(s) concerning an individual under false pretenses is punishable under the provisions of Title 5, U.S.C., Section 552a(1)(3) as a misdemeanor and by a fine of not more than \$5,000.

Signature \_\_\_\_\_ Date \_\_\_\_\_



unnecessary delay should be interposed between receipt of the case in the office of District Counsel and final decision on the prosecution question. See CCDM (31)4(23)0.

(4) **Review and Evaluation.** The decision within Counsel with respect to criminal prosecution is reached after the review and evaluation of the evidence in light of the applicable law and the established standard of prosecution. The standard of prosecution is that prosecution shall be recommended only where the evidence is sufficient to establish guilt beyond a reasonable doubt and there is a reasonable probability of conviction. For definitions of "reasonable doubt," see *Wilson v. United States*, 232 U.S. 563, 569-70 (1941) and *United States v. Johnson*, 343 F.2d 5, 6 (2d Cir. 1965).

(a) Cases in which the evidence meets the standard of prosecution are prepared for referral by a criminal reference letter. Such letter includes the prosecution recommendation, discussion of the case, the nature of the fraud, the evidence relied upon, and other relevant matters. See CCDM (31)310.

(b) When the attorney who has been assigned a case concludes that the evidence is insufficient to warrant a recommendation for criminal prosecution under the established standard, the attorney prepares a declination memorandum. See CCDM (31)4(12)0(2).

(5) **Communication with the Department of Justice.** Prior to referral of a case, communication with the Department of Justice about that case, specifically or hypothetically, is significantly restricted by I.R.C. § 6103. See *Church of Scientology v. IRS*, 484 U.S. 9, (1987). Questions regarding the scope and impact of I.R.C. § 6103 should be coordinated with the Disclosure Litigation Division. After referral of the case, direct communications are authorized and encouraged between the Department of Justice regarding such routine matters as the issuance of statutory notices of deficiency in referred and related cases, authorization to proceed in the Tax Court with the trial of the civil aspects of a referred case, monitoring case progress within the Department of Justice, particularly where the expiration of the criminal statute of limitations is imminent, as well as questions concerning the closing of criminal cases following disposition. Communication between Counsel and the De-

partment of Justice should be between functional counterparts, i.e., docket attorneys to docket attorneys, etc.

(31)140 (4-8-96)  
**Department of Justice**

(1) **General Interrelationship Between the Criminal Tax Function and the Internal Revenue Service.** By Executive Order dated June 10, 1933, then President Franklin D. Roosevelt reorganized the executive branch of the Government. That Executive Order vested the authority in the Attorney General to institute criminal prosecutions for violations of the United States Code.

(2) **Tax Division, Department of Justice.** The Tax Division was created in December 1933, and a policy was immediately instituted to require the specific authorization of the Department of Justice, as exercised by the Assistant Attorney General, Tax Division, before prosecutive action could be undertaken by United States Attorneys in tax cases. This policy continues in force today. It was dictated by the necessity for a uniform and consistent prosecution program with regard to the tax laws. As a result of the 1933 Presidential reorganization order and the ensuing delegations of authority within the Department of the Treasury and the Department of Justice, unless otherwise authorized and directed, recommendations for prosecution must be referred to the Department of Justice, by Counsel. See CCDM (31)110(2).

(a) **Tax Division.** Most proposed tax prosecutions are reviewed and processed by the Criminal Sections of the Tax Division. The term "tax prosecution" includes all offenses defined in the Internal Revenue Code and such offenses defined in Title 18, United States Code, as may be investigated by agents of the Internal Revenue Service in connection with the enforcement of the Internal Revenue laws.

1 The final decision whether to initiate prosecution is made by or on behalf of the Assistant Attorney General, Tax Division.

2 Should a United States Attorney not desire to initiate prosecution or prosecution-related action after the Assistant Attorney General, Tax Division, has authorized such action, the Assistant Attorney General, Tax Division, determines whether to decline the case or to proceed with such action by directing attorneys from the Tax Division rather than the United States Attorney's office to handle the matter.

No U.S. Attorney  
Has Any Authority  
to Prosecute a  
Subtitle A  
Income Tax Case

Question:

*What is the expressly delegated authority for the Department of Justice to prosecute criminal tax cases?*

Answer: *There is None !!!*

The Facts are Inside

**WHAT IS THE EXPRESSLY DELEGATED AUTHORITY BY THE DEPARTMENT OF JUSTICE TO CRIMINALLY PROSECUTE AMERICAN CITIZENS/PERSONS FOR SUB-TITLE A TAXES EARNING AN HONEST LIVELIHOOD WITHIN ONE OF THE SEVERAL FREE AND INDEPENDENT STATES OF THE UNION, OTHERWISE REFERRED TO AS THESE UNITED STATES OF AMERICA?**

This is a compilation of facts and law that have been taken from The United States Statutes at Large, The United States Code Annotated, Public Papers And Addresses of Franklin D. Roosevelt, Opinions of the Secretary of the Treasury, Manual for Criminal Tax Trials, Commerce Clearing House Vol. 9--Standard Federal Tax Reports, 1988, Cumulative Bulletins, Treasury Department Orders (TDOs), Commissioner Delegation Orders (CDOs), plus other official documents, texts and writings that will be referred to throughout this Report.

The above question will be the primary subject throughout this entire Report, however, the Reader must realize that there were many detours when researching the data pertaining to this question, therefore, this Report will, at times, get somewhat off-point with other facts as a result of those detours but, hopefully, those other facts will provide the Reader with more food for thought.

**I. THE ALLEGED EXPRESSLY DELEGATED AUTHORITY FOR THE DEPARTMENT OF JUSTICE TO PROSECUTE CRIMINAL TAX CASES**

On or about December 18, 1975, the tax division of the Department of Justice, (DoJ), made available to the public a manual entitled, "Manual for Criminal Tax Trials." At Chapter I, p. 1, entitled, "GENERAL POLICIES," it states, in part, as follows:

1. Responsibility for Prosecution.

In 1933, the responsibility for the prosecution of criminal tax cases was expressly delegated to the Department of Justice. Section 5. Executive Order 6166. June 19, 1933, pursuant to Section 16, Act of March 3, 1933, 45 Stat. 1517. A Tax Division was created in the Department shortly thereafter. The policy was immediately placed in effect to require the specific authorization of the Department before prosecutive action

could be undertaken in tax cases by United States Attorneys. This continuing policy, as presently delineated, is fully explained in the United States Attorneys' Manual, Title 4: 3-4. It was dictated by the obvious necessity for a uniform, consistent prosecution program in regard to the vital, complex matter of the national revenues. "Manual for Criminal Tax Trials," id. (emphasis added) (Exhibit A)

Since Executive Order 6166 is going to be the primary subject matter of this Report, the above referenced authorizations are going to be analyzed and traced as thoroughly as possible in order to get some idea as to how, where and when the DoJ got their "expressly delegated" authority and "specific authorization" to criminally prosecute tax cases. (PLEASE NOTE: Throughout this Report, always remember the terms "expressly delegated" or "vested authority.")

We will now turn to Vol. 9 of the Commerce Clearing House--Standard Federal Tax Reports, (hereinafter CCH), 1988, code sec. 7804, entitled, "Organization and Procedure of the Internal Revenue Service," para. 5975.05, which states, in pertinent part as follows:

.05 Department of Justice.--The conduct and control of all federal tax litigation, except that in the United States Tax Court, were vested in the Department of Justice by Executive Order No. 6166, issued by the President on June 10, 1933, pursuant to authority granted by the Act of June 30, 1932, c. 314, 47 Stat. 383, 413, as amended by the Act of March 3, 1933, c. 212, 47 Stat. 1489, 1517.  
CCH, id., (emphasis added) (Exhibit B)

It is clearly evident that the manual written and distributed by the DoJ (Exh. A) has an incorrect cite. They cite "45 Stat. 1517," (which is incorrect), and the one cited in CCH is, "47 Stat. 1489, 1517." (This is correct). Whether this was purposely done or an oversight by the persons responsible for creating said manual, can

not be proven one way or the other at this time, but, to the general public, who would rarely take the time, effort and energy to check out the accuracy of such a manual, it was, and is, definitely deceitful and misleading.

First, in order to prove to the Reader that the statute cited in the DoJ's Manual for Criminal Tax Trials (45 Stat. 1517, Exh. A) was cited incorrectly, and that the Acts shown on p. 1517 had nothing to do with giving the DoJ any authority to do anything, let alone criminally prosecute tax cases, the following Acts are cited as follows which pertained to:

"....Granting the consent of Congress to compacts or agreements between the States of New Mexico and Arizona with respect to the division and apportionment of the waters of the Gila and San Francisco Rivers and all other streams in which such States are jointly interested." 45 Stat. 1517, c. 537, [H.R. 6490], [Public, No. 963], approved Mar. 2, 1929 (Exhibit C)

The other Act shown on this page pertained to:

"....Granting the consent of Congress to compacts or agreements between the States of Colorado, Oklahoma, and Kansas with respect to the division and apportionment of the waters of the Arkansas River and all other streams in which such States are jointly interested." 45 Stat. 1517, c. 538, [H.R. 7025], [Public, No. 964], approved Mar. 2, 1929 (Exhibit C)

Therefore, it is apparent, by the above cited authority, the manual put out by the DoJ conveniently quoted the wrong statute. We will now examine the correct statute as cited in the CCH.

The first statute refers to 47 Stat. 383, (sic, should read 382), 413, c. 314, 72nd Congress, which took effect on June 30, 1932, (hereinafter 1932 Act), and provided for:

Making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes. 47 Stat. 382, [H.R. 11267], [Public, No.212] (emphasis added) (Exhibit D)

As the Reader will note, this Act was passed during the reign of Franklin D. Roosevelt, who, was one of the most calculating, devious and manipulating Presidents in the history of America. Therefore, as one reads the above Act, especially the phrase, "and for other purposes," it does not take a Philadelphia lawyer to understand that this phrase covertly permitted the necessary wording to be placed in this Act to assist in successfully implementing Roosevelt's devious schemes during the next thirteen years of his reign. The following provisions of this Act that allegedly gave the "expressly delegated" and "vested" authority of the DoJ to prosecute criminal tax cases is cited in its entirety:

#### TITLE IV--REORGANIZATION OF EXECUTIVE DEPARTMENTS

##### DECLARATION OF POLICY

Sec. 401. In order to further reduce expenditures and increase efficiency in government it is declared to be the policy of Congress--

(a) To group, coordinate, and consolidate executive and administrative agencies of the Government, as nearly as may be, according to major purpose;

(b) To reduce the number of such agencies by consolidating those having similar functions under a single head;

(c) To eliminate overlapping and duplication of effort; and

(d) To segregate regulatory agencies and functions from those of an administrative and executive character.

##### DEFINITIONS

Sec. 402. When used in this title--

(1) The term "executive agency" means any commission, board, bureau, division, service, or office in the executive branch of the Government, but does not include the executive departments mentioned in title 5,

section 1, United States Code.01

(2) The term "independent executive agency" means any executive agency not under the jurisdiction or control of any executive department.

#### POWER OF PRESIDENT

Sec. 403. For the purpose of carrying out the policy of Congress as declared in section 401 of this title, the President is authorized by Executive order---

(1) To transfer the whole or any part of any independent executive agency, and/or the functions thereof, to the jurisdiction and control of an executive department or another independent executive agency;

(2) To transfer the whole or any part of any executive agency, and/or the functions thereof, from the jurisdiction and control of one executive department to the jurisdiction and control of another executive department; or

(3) To consolidate or redistribute the functions vested in any executive department or in the executive agencies included in any executive department; and

(4) To designate and fix the name and functions of any consolidated activity or executive agency and the title, powers and duties of its executive head.

Sec. 404. The President's order directing any transfer or consolidation under the provisions of this title shall also designate the records, property (including office equipment), personnel, and unexpended balances of appropriations to be transferred.

#### SAVING PROVISIONS

Sec. 405. (a) All orders, rules, regulations, permits, or other privileges made, issued, or granted by or in respect of any executive agency or function transferred or consolidated with any other executive agency or function under the provisions of this title, and in effect at the time of the transfer or consolidation, shall continue in effect to the same extent as if such transfer or consolidation had not occurred, until modified, superseded, or repealed.

-----

1 According to Title 5, sec. 1, (currently, sec. 101), the departments not included are: Department of State, Department of the Treasury, Department of Defense, Department of Justice, Department of Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health, Education, and Welfare, Department of Housing and Urban Development and Department of Transportation.



# The State of Ohio

Bob Taft

Secretary of State

902887

## Certificate

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous Filings; that said records show the filing and recording of:   ARN

of:

SOUTHERN OHIO COALITION ON CRIME



United States of America  
State of Ohio  
Office of the Secretary of State

Recorded on Roll 5127 at Frame 0548 of  
the Records of Incorporation and Miscellaneous Filings.

Witness my hand and the seal of the Secretary of State at

Columbus, Ohio, this 21ST day of APRIL

A.D. 19 95



*Bob Taft*  
Bob Taft  
Secretary of State



4-21-95  
25.00  
95042135801

**ARTICLES OF INCORPORATION OF  
SOUTHERN OHIO COALITION ON CRIME**

We, the undersigned, acting jointly as incorporators of a corporation under the Ohio Nonprofit Corporation Law, Sections 1702.01 et seq. of the Revised Code of Ohio, do adopt the following Articles of Incorporation for such corporation:

**ARTICLE I. NAME**

The name of the corporation shall be the Southern Ohio Coalition on Crime.

**ARTICLE II. PRINCIPAL OFFICE**

The place in Ohio where the principal office of the corporation is to be located is the City of Columbus, Franklin County.

**ARTICLE III. PURPOSE**

The purposes for which the corporation is formed are to create a task force in Southern Ohio consisting of public law enforcement agencies, private investigative agencies, insurance companies and any other corporations having a legitimate security concern, to assist in the investigation and prosecution of various types of economic crimes, including but not limited to thefts, receiving stolen property and other related frauds; and to assist in the recovery of stolen property; and to conduct business for any other lawful purpose.

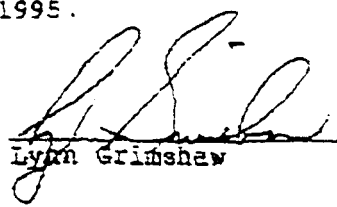
**ARTICLE IV. FIRST BOARD OF TRUSTEES**

The following persons, not less than three, shall serve the corporation as trustees until the first annual meeting or other meeting called to elect trustees:

NAME	POST OFFICE ADDRESS
→ James Sutterfield <i>former Sheriff</i>	Scioto County Courthouse Portsmouth, Ohio 45662
→ Lynn Grimshaw <i>Prosecutor</i>	Scioto County Courthouse Portsmouth, Ohio 45662
→ Gene Laws ? ?	1953 Shallowford Avenue Columbus, Ohio 43235

IN WITNESS WHEREOF, we have executed these articles of incorporation on 17 of March, 1995.

  
James Suttfield

  
Lynn Grimshaw


  
Gene Laws

## Ohio Department of Rehabilitation and Correction

## Offender Name Search Results

Below is a list of offenders meeting the search criteria.

To obtain additional information about an offender, click the offender number.

Photo (if available)*	Name	Offender Number	Date of Birth	Offense
	GENE THOMAS LAWS	<a href="#">A 35174400</a>	19540731	GSI, GSI, INTIMIDATE VICTIM/WITNESS, GSI, GSI

\*Generally, photos are not available for inmates released prior to 1998.

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## PRIVATE INVESTIGATOR TO APPEAL SEX VERDICT

Date: Wednesday, November 19, 1997

Section: NEWS

Page: 06B

Byline: By Bruce Cadwallader

Dispatch Courts Reporter

A Columbus private investigator found guilty of sexual contact with three boys said yesterday he will appeal his convictions and ask for a new *trial* after a judge sentenced him to 20 years in prison.

*Gene T. Laws*, 43, formerly of Shallowford Avenue, will serve sentences for convictions on nine counts of gross sexual imposition and two counts of intimidating a crime victim for acts committed over two years.

Laws was acquitted by a jury in September of 23 related charges, including 12 counts of rape.

He maintained his innocence yesterday and instead lashed out at the boys, saying they lied on the witness stand. He accused two of them of raping him during a drug-induced sleep.

"I did my best. Obviously, my best wasn't good enough. I think it's gotten out of hand," Laws said, referring to the police investigation. "I didn't feel the state of Ohio could prove its case."

Judge Patrick M. McGrath of Franklin County Common Pleas Court heard from three people, including one of the victims, before handing down the sentence. He also labeled Laws a sexual predator under an Ohio law that will force Laws to report his address to law enforcement officials for life after he is released from prison.

The mother of one victim told McGrath she believes her son.

"He seems all grown up and lost at the same time. I'm sure he'll never forget," the woman said.

Laws spoke for more than 20 minutes about his case and those who testified against him. He accepted no responsibility for the incidents.

## Background Information

08-23-00

During 1995 and 1996 a secret organization code named "River Project" was formed and conducted undercover operations in Scioto County.

"The River Project" consisted of a number of state and local criminal investigators; paid convicted felons; coerced local criminals who had been caught committing felonies and given immunity in exchange for cooperation; and several local citizens who joined for their own personal gain.

The first objective of "The River Project" was to prove that an extensive organized crime family existed and operated in Scioto County with official protection provided to the criminal organization by local law enforcement officials.

The second objective of "The River Project" was to be seen publically destroying that organized crime family.

↙ The tools used by "The River Project" were false sworn statements, false applications for search warrants, widely publicized searches of local businesses and homes, confidential un-named informants, illegal investigators and methods and different acts of extortion that have continued into the year 2000.

↙ False entries were made into a Federal Organized Crime Data System called MAGLOCLLEN stating that a large number of local citizens (both indicted and unindicted) were members of organized crime.

↙ Members of "The River Project" also arranged to have created a non-profit corporation named "The Southern Ohio Coalition on Crime" in order to solicit money to fund their secret investigation. Although one of the targets of their investigation was tax evasion, this coalition failed to file tax returns or to report monies obtained.

Members of "The River Project" stole items obtained through search warrants and used these stolen items in attempts to cause personal and business damage to the targets of their secret investigation.

By presenting false and perjured testimony to a local grand jury, "The River Project" succeeded in obtaining dozens of felony indictments accusing numerous innocent local citizens of committing crimes.

Even given all the safe guards of the judicial system and special prosecutors assigned to investigate these cases, a number of the targets of "The River Project" were forced to enter misdemeanor pleas or face the possibility of losing their homes, families, children, and imprisonment. Despite entering these pleas, each of the defendants has continued to maintain their innocence from then until this date.

Today in Scioto County Common Pleas Court Attorney Robert Newman of Cincinnati, Ohio, filed motions in these cases stating that these innocent persons were indicted and convicted on the basis of perjured testimony. Attorney Newman has asked that the court and the prosecutor's office examine the cases and reopen them for a new trial or whatever action may be deemed necessary to correct these injustices.

Motions are being filed today on behalf of these persons:

Phyllis Garland, Case No. 96-CR-292

Naomi Hobbs, Case No. 96-CR-284

Mary Howard, Case No. 96-CR-291

Melissa Munn, Case No. 96-CR-289

Michael Spencer, Case No. 96-CR-180

Diane Wilson, Case No. 96-CR-285



U.S. Department of Justice  
P. Michael Patterson  
United States Attorney  
Northern District of Florida  
**FINANCIAL LITIGATION UNIT**

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E. Ann Head Ortega, Financial Litigation Agent, (850) 216-3862  
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111 N. Adams Street  
4<sup>th</sup> Floor  
Tallahassee, Florida 32301

Main Telephone: (850) 942-8460  
Fax: (850) 942-8466

August 28, 2000

Mr.

RE: U.S. v. \_\_\_\_\_, 1:00CV1 /

Dear Mr.

Enclosed is a Notice of Lawsuit and Request for Waiver of Service of Summons and a copy of the Complaint filed in the above-referenced case. Please read this notice carefully and completely. If you agree to the waiver, complete the Waiver of Service of Summons form and return it in the enclosed postage-paid envelope no later than thirty days from the date of this letter.

If you are able to pay the debt in full, we will, of course, dismiss the suit filed against you. Your cashier's check should be made payable to U.S. DEPARTMENT OF JUSTICE and mailed to the above address.

By signing and returning the Waiver of Service of Summons, you will avoid the added costs of formal service (refer to attached Notice of Lawsuit, paragraph 4).

Thank you for your cooperation in this matter.

Sincerely,

P. MICHAEL PATTERSON  
United States Attorney

Ann Head-Ortega  
Financial Litigation Unit

Enclosures

U.S. Department of Justice

Financial Statement of Debtor  
(Submitted for Government Action on  
Claims Due the United States)

NOTE: Use additional sheets where space on this form  
is insufficient or continue on back of last page.



Authority for the solicitation of the requested information is one or more of the following: 5 U.S.C. 301, 901 (see Note, Executive Order 6166, June 10, 1933); 28 U.S.C. 501, et seq.; U.S. 31 U.S.C. 951, et seq.; 44 U.S.C. 3101; 4 CFR 101, et seq.; 28 CFR 0.160, 0.171 and Appendix to Subpart Y, Fed. R. Civ. P. 33(a), 28 U.S.C. 1651, 3201 et seq.

The principal purpose for gathering this information is to evaluate your ability to pay the Government's claim or judgment against you. Routine uses of the information are established in the following U.S. Department of Justice Case File Systems published in Vol. 42 of the Federal Register: Justice/CTV-001 at page 5332; Justice/TAX-001 at page 15347; Justice/USA-005 at pages 53406-53407; Justice/USA-007 at pages 53408-53410; Justice/CRIM-016 at page 12774. Disclosure of the information is voluntary. If the requested information is not furnished, the U.S. Department of Justice has the right to such disclosure of the information by legal methods.

PERSONAL IDENTIFICATION

1. Name (debtor)	2. Birth Date (mo. day yr.)	3. Social Security No.
4. Home Address (Street) (City, State & Zip Code)		5. Driver's License No. 6. Home Phone (Area Code)

EMPLOYMENT \* \*

If self employed see last page

7. Present employer's name	8. Employer's Phone Number ( )
9. Employer's Address (Street) (City, State & Zip Code)	10. Job Title 11. Present employment (Length)
12. List other employers you have had in the last 3 years:	

SALARY, WAGES OR COMMISSION

13. Your gross salary (before any deductions) Circle one weekly bi-weekly monthly	\$ _____
14. Your take home pay is	\$ _____
15. Your commission is	\$ _____
<i>List the amount of deductions for:</i>	
16. Federal Taxes	\$ _____
17. State/County/City Taxes	\$ _____
18. Social Security Taxes (FICA/Medicare)	\$ _____
	Total \$ _____
19. Medical Insurance	\$ _____
20. Union Dues if applicable	\$ _____
21. Allotments to Credit Union, Bank or others	\$ _____
22. Life Insurance	\$ _____
23. List any other payroll deductions (including 401 (k) contributions):	\$ _____
	\$ _____
Attach a copy of your last <sup>TWO</sup> pay slip to this form	Total Deductions \$ _____

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**SPOUSE / COMPANION**

24. List current spouse's name	25. Social Security No.	26. Birth Date (mo. day yr.)
27. If spouse's home address is different, list below		
28. List spouse's present employer's name and address		29. Employer's phone number (      )
30. Job Title	31. Present employment (Length)	
32. Spouse's gross salary is \$ _____ Spouse's take home pay is \$ _____		

*(Note: If not married, but have a live-in companion, furnish information on this companion in items 24 through 32 above.)*

**DEPENDENTS**

33. List all dependents who live with you:

NAME	AGE	RELATIONSHIP

34. List names and address of all dependents who do not live with you:

NAME/ADDRESS	AGE	RELATIONSHIP

35. List amount of monthly income received by dependents from any sources other than you or your spouse \$ \_\_\_\_\_

36. Total amount of monthly income paid by you or your spouse to dependents listed in item 34 is \$ \_\_\_\_\_

37. Does spouse/companion receive alimony or child support from a previous marriage? If yes, amount: \$ \_\_\_\_\_

38. List names and addresses of Parents/In-Laws if living.

\_\_\_\_\_

**TAXES**

39. Did you file a Federal Income Tax Return last year?  Yes  No  
 Joint  Individual  Amount of Gross Income on return was \$ \_\_\_\_\_

40. Are you or did you receive a tax refund from Federal, State, City or County?  
 Yes  No *If yes, list from whom and amount for each refund:*  
 \_\_\_\_\_ Total Amount \$ \_\_\_\_\_

41. Do you owe delinquent taxes?  Yes  No *If yes, list below years and amounts due:*

\_\_\_\_\_

*Attach a copy of your last Federal income tax form filed INCLUDING W2s AND ALL SCHEDULES*

**REAL PROPERTY/FARM LAND/VACATION/RENTAL**

42. Are you buying the home in which you live?  Yes  No  
 Are you buying or do you own real property other than your home?  Yes  No  
 If yes, list the address and discription of each property:  
 \_\_\_\_\_  
 \_\_\_\_\_
43. List the value of each piece of property and your equity in it: \$ \_\_\_\_\_
44. Is any of the above listed property owned jointly with anyone else?  Yes  No  
 If yes, list property and the name of the co-owner:  
 \_\_\_\_\_
45. Are you making mortgage payments?  Yes  No If yes, amount? \$ \_\_\_\_\_
46. Do you rent the property to others ?  Yes  No  
 If yes, what is the net income to you? \$ \_\_\_\_\_
47. Does your spouse/companion solely own real property?  Yes  No  
 If the answer is yes, list the property address and value:  
 \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

**48. FIXED MONTHLY EXPENSES (Fill in Blanks)**

Rent/Mortgage	\$ _____	Home Insurance & Taxes	\$ _____
		<small>List only if paid directly by you</small>	
Car Payment	\$ _____	Car Insurance	\$ _____
Gasoline	\$ _____	Water	\$ _____
Electricity	\$ _____	Telephone	\$ _____
Natural Gas	\$ _____	Other Utilities (Specify)	\$ _____
Cable TV	\$ _____	Public Transportation	\$ _____
Food	\$ _____	Other	\$ _____
Subtotal	\$ _____	Subtotal	\$ _____
		Grand Total	\$ _____

List credit card, installment or other payments

Creditor	Date of Debt and Purpose	Total Amount Due	Date of last payemnt	Payment Amount	Frequency

(If additional space needed, use back of last page.)

**TOTAL FIXED MONTHLY EXPENSES** \$ \_\_\_\_\_

49. CASH

Provide name and address of Bank or Institution | Amount in Account/for on deposit |

Checking Account Number	
Savings Account Number	
Credit Union Account(s) Number	
Money Market Account	
Certificate of Deposit	
IRA or Keough Account	

Total Amount \$ \_\_\_\_\_

OTHER ASSETS

50. Do you or your spouse/companion own U.S. Savings Bonds?  Yes  No

If yes, number (\_\_\_\_). State Denomination \_\_\_\_\_ Value \$ \_\_\_\_\_

51. Do you own stocks or other type bonds?  Yes  No

If yes, list value and name and address of issuer:

\_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 (If additional space needed, use back of last page.)

52. Do you receive any other cash compensation, such as: an insurance annuity, lottery winnings, pensions, or disability benefits?  Yes  No

Do you receive food stamps, SSI funds or unemployment compensation?  Yes  No

If yes to either of these questions, list below the source and amount:

\_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

53. List make and model of any auto owned or being purchased by you, your spouse/companion or dependent:

Model/Year	Make/License No.	Value

54. Do you or your spouse/companion own:

- |   |          |
|---|----------|
| a boat?                                     | \$ _____ |
| a camper/recreational vehicle?              | \$ _____ |
| a motorcycle/bike?                          | \$ _____ |
| antiques, art objects or stamp collections? | \$ _____ |
| jewelry valued over \$5,000?                | \$ _____ |

Total Amount \$ \_\_\_\_\_

Total Amount \$ \_\_\_\_\_

Is any of the property listed above owned jointly with anyone else?  Yes  No

If yes, whom: \_\_\_\_\_

ITEMS WHICH MIGHT AFFECT FUTURE ASSETS

55. Are you involved in a lawsuit in which you might receive money or something of value?  Yes  No  
If yes, state where the suit is filed and what it involves: (include Court number and caption) \_\_\_\_\_

\_\_\_\_\_

56. Are you a Trustee, Executor, or Administrator of an estate?  Yes  No  
If yes, give details: \_\_\_\_\_

\_\_\_\_\_

57. Is anyone holding money on your behalf?  Yes  No  
If yes, give details: \_\_\_\_\_

\_\_\_\_\_

58. Is there any likelihood you will receive an inheritance?  Yes  No  
If yes, give specific details: \_\_\_\_\_

\_\_\_\_\_

59. Have you sold or transferred either real property or stocks and bonds during the past three years.  
 Yes  No

If you have, give specific details: \_\_\_\_\_

\_\_\_\_\_

60. Are your wages and/or those of your spouse under garnishment at this time?  Yes  No  
If yes, give specific details: \_\_\_\_\_

\_\_\_\_\_

61. Are there outstanding unpaid judgments against you for any debts other than this one?  Yes  No  
If yes, give specific details: \_\_\_\_\_

\_\_\_\_\_

62. Do you owe large medical bills?  Yes  No If yes, give specific details and attach copies of the bills:

\_\_\_\_\_

\_\_\_\_\_

With knowledge of the penalties for false statements provided by 18 United States Code 1001 (\$10,000 fine and/or five years imprisonment) and with knowledge that this financial statement is submitted by me to affect action by the U. S. Department of Justice, I certify that I believe the above statement is true and that it is a complete statement of all my income and assets, real and personal, whether held in my name or by any other.

\_\_\_\_\_ Date

\_\_\_\_\_ Legal Signature

- • If you are self-employed, you must complete an additional form regarding your income.
- If you have added additional sheets to this form or added information on the back of this page, you must also sign these sheets.

# BY ORDER OF THE SECRETARY OF THE TREASURY

TREASURY ORDER: 150-10

→ DATE: April 22, 1982

SUNSET REVIEW: TBD

SUBJECT: Delegation--Responsibility for Internal Revenue Laws

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in the Internal Revenue Code of 1954 and Reorganization Plan No. 26 of 1950, it is hereby ordered:

1. The Commissioner of Internal Revenue shall be responsible for the administration and enforcement of the Internal Revenue laws.
2. Commissioner Order No. 190 and General Counsel Order No. 4 state the powers delegated to the Chief Counsel for the Internal Revenue Service.
3. All outstanding orders and delegations of authority relating to the above are modified accordingly.

This Order supersedes Treasury Department Order No. 150-37 dated March 17, 1955.

Donald T. Regan

Secretary of the Treasury

# BY ORDER OF THE SECRETARY OF THE TREASURY

**TREASURY ORDER:** 150-23

**DATE:** November 28, 1983

**SUNSET REVIEW:** TBD

**SUBJECT:** Delegation--Referral Authority in Organized Crime Drug Enforcement Task Force Cases

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in the Internal Revenue Code of 1954 and 31 U.S.C. section 321(b), it is hereby ordered:

- 1. The power of the General Counsel to refer cases to the Department of Justice for investigation and possible litigation, a portion of which the General Counsel has further delegated to the Chief Counsel of the Internal Revenue Service in General Counsel Order Number 4, is hereby removed from the General Counsel and delegated to the Commissioner of Internal Revenue with respect to the following limited class of cases: income tax cases arising under the Internal Revenue laws which are designated under the Organized Crime Drug Enforcement Task Force program for referral to the Department of Justice for grand jury investigation.
2. The Commissioner of Internal Revenue shall have the authority to redelegate any of the authority delegated in this order to any officer or employee in the Internal Revenue Service at or above the level of District Director.

Donald T. Regan

Secretary of the Treasury

# Handbook 4.3.9

## Jeopardy/Termination Assessments Handbook

### Chapter 3

### Assessment Procedures (ESP)

#### Contents

- [4.3.9] 3.1 Overview
  - [4.3.9] 3.2 Preparing Assessments
    - [4.3.9] 3.2.1 Information Transmitted
    - [4.3.9] 3.2.2 How Assessment is Made
  - [4.3.9] 3.3 Assessing Amounts
  - [4.3.9] 3.4 Confirming Assessment
- 

#### [4.3.9] 3.1 (06-30-1999)

##### Overview

1. This chapter establishes procedures for the preparation, assessment, and confirmation of jeopardy/termination assessments.

#### [4.3.9] 3.2 (06-30-1999)

##### Preparing Assessments

1. A jeopardy/termination assessment must be approved by the district director or Director, International District Operations and Counsel. The assessment must be made on the same day that the jeopardy/termination assessment is approved. Jeopardy/termination assessments will be prepared following quick assessment procedures. See the former IRM 48(13)2.620. Quick assessments are made on either master file (MF) or non-master file (NMF). NMF are processed in the same manner as MF, except the numbering is different and abstract codes are needed for individual master file (IMF) and business master file (BMF) adjustments.
2. Requests for quick assessments will be made by telephone or facsimile. Facsimile should be used if possible. Form 2644, *Recommendation for Jeopardy or Termination Assessment*, will be used to request quick assessments, in addition to Form 2859, *Request for Quick or Prompt Assessment*.

IF the request is made by:

THEN provide the following information:

Telephone

1. Affirmative statement that the district director or Director, International District Operations approved Form 2644;

2. Name, address, and TIN of the taxpayer;

3. Type of tax;

4. Taxable period;

5. Amount of tax, penalties with the appropriate transaction code(s), interest to be assessed, credit adjustments and/or reference numbers;

6. Amount of payment, if any, the balance due, 23C date; and

7. Document locator number (DLN).

Facsimile

1. Form 2859 for each type of tax return, with a control number (See the example that follows this chart); and

2. Form 3210, *Document Transmittal Form*, for each type of tax return. Include the name control, MFT,

TIN, Tax period, and Control number. In the remarks area, enter the 23C date and "FAX QUICK ASSESSMENT." Address the form to the appropriate function and include the originator's complete address, mail stop, and fax number so the receipted Form 3210 can be faxed back.

3. **Example of Control Number:** FAX 65-001-1. The 1st and 2nd digits are the district office code. The 3rd, 4th, and 5th digits are the Julian date that Form 2859 is actually faxed. The last digit is the number of the Form 2859. The control number will continue sequentially throughout the calendar year and will start over each January 1st. The control number should be entered in bold print on the top of each Form 2859.

#### [4.3.9] 3.2.1 (06-30-1999) Information Transmitted

1. The quick assessment is transmitted to the Accounting Branch in the Computer Services and Accounting Division in the service center. Only ESP will transmit the quick assessment.
2. Faxing should be done only once each day, if possible, and prior to 1:30p.m. If there are numerous entities and returns, the information should be transmitted as early as possible.

#### NOTE:

If two work days or less remain before the statute of limitations will expire, follow telephonic quick assessment procedures.

#### [4.3.9] 3.2.2 (06-30-1999) How Assessment is Made

1. The assessment is made according to the type of assessment.
2. Jeopardy -- Assessment is made on MF for the full period.
3. Termination -- Assessment is made on NMF as a short period, even though the period may be a full period. It is made as a short period to differentiate between the termination period and the full period under normal filing requirements.
4. Possessor of Cash -- The possessor of cash assessment is made as either a jeopardy or termination assessment, as noted above. A new taxable entity and temporary TIN is created for possessor of cash assessments.
  - A. New Taxable Entity -- A new taxable entity (dummy file) is created for the individual who is in physical possession of the cash. All documents requiring entity information must use "(Possessor's Name) as Possessor of Certain Cash" as the name line.
  - B. Temporary TIN -- A temporary TIN must be obtained for all assessments made under IRC 6867 irrespective of information indicating the possessor's personal TIN. Contact the service center entity function to obtain a temporary TIN. The use of the temporary TIN will enable separate tax liability treatment for the possessed cash and avoid any effect on the possessor's personal individual tax liability, which remains separate from the IRC 6867 assessment.

#### [4.3.9] 3.3 (06-30-1999) Assessing Amounts

1. After the jeopardy/termination assessment information is transmitted to the service center, the service center will process the assessment. The service center will provide ESP with the required information that the assessment was made.
2. Service Center Action -- The service center will process the assessment and notify the district of the DLN and Form 23C, *Certificate of Assessment* data. This information will be placed on Form 2644 and Form 2859.
3. ESP Action -- After the assessment is made by the service center, ESP will forward the originals to the service center and return one copy of Form 2644 to the examiner.
4. After the assessment is processed by the service center and the DLN and 23C data has been placed on Form 2644 and Form 2859, the following items will be forwarded within one day to the service center Accounting Branch, Accounting and Control System, Journal and Ledger Unit.
  - Original Form 2644;



- Original Form 2859;
  - Original Form 3198 that has already been prepared by the agent;
  - Copy of Form 4549-A, *Income Tax Examination Changes*, portion of the Tax Computation; and
  - Copy of narrative.
5. A copy of Form 2644, with the DLN and 23C data, will be returned to the examiner responsible for the jeopardy/termination assessment.

#### [4.3.9] 3.4 (06-30-1999)

#### Confirming Assessment

1. After the jeopardy/termination assessment is processed by the service center, the service center will provide ESP with confirmation that the assessment has been made.
2. The service center will provide ESP with a confirmation copy of the MF or NMF assessment.
3. Master file Assessment – A confirmation copy of Form 3552, *Prompt Assessment Billing Assembly*, or TY-26, *Form 17-A Statement of Tax Due*, is mailed to the district by the service center after processing. The form must be associated with the control copy in ESP.
4. Non-master file assessment – A confirmation copy of Form 6335, *Statement of Tax Due the Internal Revenue Service*, is mailed to the district by the service center after processing. The form must be associated with the control copy in ESP.
5. Upon receipt of Form 3552 or Form 6335 in ESP, the form will be reviewed to verify that the assessment has been made. Verify the name, address, TIN, and tax period on Form 3552 or Form 6335 for consistency with Form 2859.
6. The statute control examiner will be notified in order to close the case from the open statute control file.
7. Upon request, the service center will withhold manual and/or computer billing.
8. Verification Errors – If any errors are detected in Form 3552 or Form 6335, immediately contact the service center for issuance of a corrected bill. If verification of the assessment is not received, the Chief, ESP, or designated employee must follow-up with the service center.
9. Follow-up will be done in sufficient time to prevent barred assessments.
10. Follow-up will be done three weeks from the 23C assessment date for non-statute assessments.

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### Internal Revenue Manual



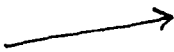
### Hndbk. 4.3.9 Chap. 3 Assessment Procedures (ESP) (06-30-1999)

[1.3] 13.6.5 (08-19-1998)

Protecting Identities of Service Employees

1. The names, signatures, initials or other identifying details (but not name of office) of lower level Internal Revenue Service employees may be deleted from documents released when considered necessary in order to avoid any unwarranted invasion of personal privacy or threat of harassment or abuse of employees and their families.
  - A. In these cases, the identities of these lower level employees may be deleted from law enforcement documents, even where their identities are known to the particular requester.
  - B. These deletions should be supported by citing exemption (b)(6) and, when applicable, exemptions (b)(7)(C) and/or (b)(7)(F).
2. The identities of senior level officials (i.e., those management officials who are heads of office) may not be withheld pursuant to these privacy-based exemptions, except where the senior level official is discussed in the context of alleged wrongdoing.
  - A. Due to the IRS reorganization, the titles of senior level officials described below may not be all inclusive and are subject to change.
  - B. Any questions that may arise with regard to who is and who is not a senior level official should be directed to the Office of Governmental Liaison and Disclosure in the Headquarters Office.
3. Senior level officials in field offices are the:
  - A. Regional Commissioner;
  - B. ARC or Regional Chief Officer;
  - C. Regional Inspector;
  - D. Assistant Regional Inspector;
  - E. Regional Counsel;
  - F. Deputy Regional Counsel;
  - G. Regional Director of Appeals;
  - H. District Counsel;
  - I. District, Service Center, and Support Services Director; and
  - J. other heads of office (e.g., computing centers, etc.).
4. Senior level officials in the Headquarters office are the:
  - A. Commissioner;
  - B. Deputy Commissioner;
  - C. Assistants to the Commissioner;
  - D. Chief Officers;
  - E. Assistant Commissioners;
  - F. Executive Officer for Service Center Operations;
  - G. Chief Inspector;
  - H. Chief Counsel;
  - I. Deputy Chief Counsel;
  - J. Associates Chief Counsel;
  - K. Deputy Associates Chief Counsel;
  - L. Assistants Chief Counsel;
  - M. Revenue Service Representatives (RSRs); and
  - N. National and Division Directors.
5. The typed identities and signatures of Internal Revenue Service employees and witnesses shown on Form 61, *Appointment Affidavits*, may not be withheld pursuant to the privacy-based exemptions.
  - A. Any privacy interest with respect to these typed identities and signatures is outweighed by the public interest in ensuring that agency actions were taken by duly sworn employees, as evidenced by the appointment affidavits. Disclosure personnel should release these documents in full.
  - B. In those cases where the requester seeks the appointment affidavit of an employee who utilizes a registered pseudonym, the appointment affidavit should be furnished, with the real identity (typed identity and signature) of the employee redacted on the basis of exemption (b)(6).
  - C. In the case of a request that asks for the appointment affidavit of an employee in the GS-1811 series (Criminal Investigator), the employee's identity should be redacted under exemptions (b)(6) and (b)(7)(c).

8278 in column (e) opposite the penalty amount assessed. The penalty reason code (PRC) shall be entered in red in the following format "PRC-\_\_" (fill in number corresponding to applicable reason code).

-  (4) **Assessed Liabilities:** When the collection employee makes a determination not to abate a penalty for reasonable cause, the taxpayer will be informed of that decision.
-  a. If the taxpayer disagrees with the employee's determination and maintains that the penalty should be abated, written notification should be provided to the taxpayer using Pattern Letter 2413(P).
-  b. An appropriate input document will be used to request input of TC 290, Reason Code 92, blocking series 98. This is necessary to insure that, if subsequent claims of reasonable cause are received, the employee will be able to determine that the issue has been addressed before.
- c. If the taxpayer submits a written appeal, the collection employee who rejected the abatement request will examine the appeal for additional information which may change the original determination not to abate the penalty.
- d. Normally collection action will be suspended on the penalty portion of the assessment during the 15 day period granted to the taxpayer to file an appeal, or during the period the case is under consideration by Appeals. However, action need not be suspended if circumstances meriting continuation of collection action exist. The Collection function employee must obtain managerial approval not to suspend collection of the penalty portion of the assessment.

7.1.6.2 (08/20/98)  
**Service Center  
 Procedures**

- (1) The penalties will be assessed on a Civil Penalty Module:
- MFT 13 (Business Master File), or
  - MFT 55 (Individual Master File).
- (2) The penalty will be assessed/abated/sustained using command code ADJ54. Input:
- a. A TC 290,
  - b. The appropriate reference number (see Exhibit 120.1.7-1),
  - c. The dollar amount of the penalty: (1) as a positive amount to assess, (2) as a negative amount to abate, or (3) as a zero amount to sustain (if no change), and
  - d. Blocking series: (1) 52X for the first assessment on the account, (2) 53X for any subsequent adjustments, (3) 98X for any disallowance, or (4) 15X to file attachments, correspondence, etc., (5) 59X PMF generated assessments (1991 and prior tax years).
  - e. Use Hold Codes, Priority Codes, Posting Delay Codes, and Penalty Reasons Codes as applicable. See Exhibit 120.1.1-3, and

IR Manual  
30(55)4.2

EXH. F-1

IMF Operati

- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREVTG 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 EI 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) AVR Clean-Up (see Project 713)

3(15)(129)9.(11) 11-1-87

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 88 (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) 11-1-87

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 tax 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/G will receive correspondence and/or Forms 1040X. In addition, A/G will also receive taxpayer correspondence and returns that have been reviewed by URB.

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

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

Department of the Treasury  
Internal Revenue Service

Date of this Notice:  
08/28/2000  
Taxpayer Identification Number:

If you inquire about your  
account, please refer to  
these numbers

Document Locator Number:  
>34647-294-20000-91  
Form: Tax Period:  
1040 12/31/1985



For assistance you may call us  
Toll-Free at 1-888-829-7434

*34/6/47/294/200/00/91*  
*Series*  
*Cinti. Tax Class BNF Salion Blockiz*  
*date Number*

REMINDER - YOU STILL OWE AN AMOUNT ON YOUR ACCOUNT

The purpose of this notice is to remind you of taxes owed. Our records show you haven't paid the full amount you owe for your account, Form 1040 for the tax period ended 12/31/1985. The amount you owe is shown below.

AMOUNT YOU PREVIOUSLY OWED .....	\$2613.08
Plus ACCRUED PENALTY for LATE PAYMENT .....	\$238.65
Plus ACCRUED INTEREST on LATE PAYMENT .....	\$2828.55
AMOUNT YOU OWE NOW .....	\$5680.28

The unpaid amount you owe may include tax, penalties and interest. It also should reflect any credit(s) and payment(s) we received for this tax period on your account since the last notice we sent you. The penalty and interest listed above are based on both any unpaid amount on your account and any amount you paid late after we sent you the prior notice. If you owe additional tax for the same period a separate notice will be issued for that tax liability.

To avoid additional penalties and interest, please pay the amount you owe now. Make your check or money order payable to the United States Treasury. Please show your taxpayer identification number on your payment and mail it with this notice to the reply address shown below. We've enclosed an envelope for your convenience.

If you can't pay the total amount you owe now and want to arrange payments, or if you believe our figures aren't correct, you may contact us at the above telephone number.

Thank you in advance for your cooperation.

Enclosures:  
Copy of this notice  
Envelope  
Publication 594

Reply to:  
INTERNAL REVENUE SERVICE  
P.O. Box 12267  
Covington, KY 41012-9957

20/198512



Internal Revenue Service

Department of the Treasury

District  
Director

550 Main St., Cincinnati, OH 45202-3222

Person to Contact:  
Mark Huneke 31-03080

Telephone Number:  
513-263-3920

Refer Reply to:  
E:QMS:D:31203219

Date:

AUG 31 2000

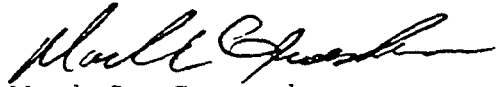
Dear Mr. & Mrs.

This is in response to your Freedom of Information Act request dated August 15, 2000, received in this office on August 19, 2000.

↓  
You requested a copy of Form 5345 for you for tax years 1996, 1997, and 1998. Enclosed, pursuant to this request, are copies of Form 5345 for tax years 1996, 1997 and 1998 (three pages).

If you have further questions, contact the Disclosure Office at the address or phone number above.

Sincerely yours,

  
Mark L. Groeschen  
Disclosure Officer

Enclosures

C.C. AM 424

### Examination Request Master File

(Reference - IRM 48(13)1)

1. Source Code 015	2. Organ Code 1510830	3. MFT 110	4. Status Code	5. Return Needed No-Rev/Yes F5546 & labels No Rev/No F5546/No labels Circle One <input checked="" type="radio"/> BLANK <input type="radio"/>	6. Override D. O.	7. Project Code 2319	8. Aging Reason	9. Push Code/Spec. Msg. Code	10. Statute Date 04/15/00	11. Form 1040
-----------------------	--------------------------	---------------	----------------	--	-------------------	-------------------------	-----------------	------------------------------	------------------------------	------------------

12A. <table border="1"> <tr> <td colspan="10"></td> <td>12B. Name Control ** Check Digit</td> </tr> </table>											12B. Name Control ** Check Digit	13. Tax Period 9712	14. Activity Code 531	15. Amount Claimed (Dollars Only) a. <i>net'd 08-20-99</i>
										12B. Name Control ** Check Digit				
12C. Taxpayer's Name (Print)	9812	531	b. <i>net'd 08-12-99</i>											
16. Taxpayer's Address	91012	531	c. <i>net'd 08-12-99</i>											
			d. <i>net'd 08-12-99</i>											
			e. <i>net'd 08-12-99</i>											

17. Reason for Request/Related Return: Related Return Source Code <i>02</i>	Foreign Controlled Corporation? <i>Y/N</i>	18. Requester/Date/Organization <i>Victory Investments 6/30/99/0000</i>
Joint Committee? <i>Y/N</i>	Related Return Ind: <i>2</i>	19. Approved By/Date <i>BO 7/7/99</i>
<i>WINDSLEIGHT</i>		Is case CEP? <i>N/P/S</i>

20. Record on File									
Tax Period	Source	D. O.	Orig./App. Code	Status	Serial Number	Date	Transferee's D. O.	Comments	

21. TC 424 Reject Date:	22. Followup Action: <i>8/23/99 orig sta to B Brook</i>	23. Operator/Date: <i>mg 07-06-99</i>
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**Exhibit 35(65)0-1 Cont.**

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**Form 813—Document Register**

(a) Preparing Form 813—A separate 813 must be prepared for each type return on which account transcripts are requested. All information to be entered, as follows, must be typed or printed.

1—Enter in block marked "Trans. Code"—990, 991, 992 or 993.

2—When requesting "SPECIFIC" or "TAX CLASS" transcripts from the BMF enter the MFT code to the right of the taxable period. MFT Code of 29 is required for all IRAF processing.

3—Enter the EIN or SSN.

4—NAME CONTROL—May be left blank for all BMF and IMF requests from the valid segment only. A name control with unlike characters will be matched against the DM-1 tape (IMF) to determine which segment will receive the request.

IRAF Name Control (N/C) addresses the valid segment only. N/C of AAAA will address the valid and invalid segments. N/C of ZZZZ will address the invalid only.

5—Enter the taxable period (For "SPECIFIC" requests only).

6—Enter requester's full name and address in lower left corner immediately above the printed words Form 813.

7—Enter in the lower right corner the tax return form number relating to the IMF, IRA or BMF transcripts requested.

8—Enter the date the transcript request is being prepared.

(b) Transmittal of Forms 813—Forward original and duplicate copy of Form 813 to the Master File Transcript Clerk at your Service Center.



Form 813—Document Register

Alpha/Numeric S.C. Doc. No.	Document Register		Trans. Code	Date	
	<input type="checkbox"/> Perfect <input type="checkbox"/> Regular	<input type="checkbox"/> Imperfect <input type="checkbox"/> Estimated			
Branch Ctr. Number	Court Code		(1)	(2)	
			00	50	
			01	51	
(3)	(4)	(5)	(9)	02	52
			03	53	
			04	54	
			05	55	
			06	56	
			07	57	
			08	58	
			09	59	
			10	60	
			11	61	
			12	62	
			13	63	
			14	64	
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			37	87	
			38	88	
			39	89	
			40	90	
			41	91	
			42	92	
			43	93	
			44	94	
			45	95	
			46	96	
			47	97	
			48	98	
			49	99	

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DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, DC 20226



August 30, 2000

REFER TO: 122000-MRL  
00-2434

Dear Ms.

This is in regarding your request, addressed to the United States Department of Justice that was copied to this Agency.

If it is your belief that ATF maintains records about you, you must tell us why you feel ATF has records about you, and describe the circumstances under which there was contact with ATF. This information will reasonably describe the records you seek, and enable us to conduct further searches.

Both the FOIA and Privacy Act require that requestors either reasonably describe the records sought, or identify the nature of the record, with sufficient detail to enable us to find the responsive records (see Title 31 Code of Federal Regulations, Part I).

If you have any questions, please write again.

Sincerely,

Marilyn R. LaBrie  
Disclosure Specialist

the base period. Economic Stabilization Regulation No. 1, section 3a(1), 36 P.R. 16515 (August 21, 1971). A "transaction" under Phase I takes place when the seller performs the service. Economic Stabilization Circular No. 101.302(1). Since X has performed services during the pre-August 15, 1971, period at a higher price, the ceiling price during the freeze will be the higher price subsequently granted by the Post Office.

This ruling has been approved by the General Counsels of the Price Commission and Cost of Living Council.

Dated: June 6, 1972.

**LEX H. HENKEL, Jr.**  
*Acting Chief Counsel,*  
*Internal Revenue Service.*

Approved: June 6, 1972.

**SAMUEL R. PIERCE, Jr.**  
*General Counsel,*  
*Department of the Treasury.*

[PR Doc.72-8788 Filed 6-9-72; 8:48 am]

Office of the Secretary  
[Treasury Department Order 221]

**BUREAU OF ALCOHOL, TOBACCO,  
AND FIREARMS**

**Establishment, Organization, and  
Functions**

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 28 of 1950, it is ordered that:

1. The purpose of this order is to transfer, as specified herein, the functions, powers, and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service), to the Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Director). The Director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).

2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary in the administration and enforcement of the following provisions of law:

(a) Chapters 51, 52, and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;

(b) Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to activities administered and enforced with respect to chapters 51, 52, and 53;

(c) The Federal Alcohol Administration Act (27 U.S.C. Chapter 8):

(d) 18 U.S.C. Chapter 44 (relating to firearms);

(e) Title VII, Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix, sections 1201-1203);

(f) 18 U.S.C. 1262-1265; 1952; 3815 (relating to liquor traffic);

(g) Act of August 9, 1939 (49 U.S.C. Chapter 11); insofar as it involves matters relating to violations of the National Firearms Act;

(h) 18 U.S.C. Chapter 40 (relating to explosives); and

(i) Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934) relating to the control of the importation of arms, ammunition, and implements of war.

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

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

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

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

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

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

(c) The terms "internal revenue officer" and "officer, employee, or agent of the internal revenue" wherever used in such regulations, rules, instructions,

and forms, in any law specified in paragraph 2 above, and in 18 U.S.C. 111 shall include all officers and employees of the United States engaged in the administration and enforcement of the law administered by the Bureau, who are appointed or employed by, or pursuant to the authority of, or who are subject to the directions, instructions, or orders of the Secretary.

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

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

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

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

7. All delegations inconsistent with this order are revoked.

8. This order shall become effective July 1, 1972.

Dated: June 6, 1972.

[SEAL] **CHARLES E. WALKER,**  
*Acting Secretary of the Treasury.*  
[PR Doc.72-8818 Filed 6-9-72; 8:50 am]

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

[Marketing Agreement 146]

**DOMESTICALLY PRODUCED PEANUT**

**Budget of Expenses of Administrative  
Committee and Rate of Assessment  
for 1972 Crop Year**

Pursuant to Marketing Agreement 14  
regulating the quality of domesticall

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## Exhibit 35(65)0-7 Cont.

Form 4340—Certificate of Assessments and Payments ◇

**Name of Taxpayer** — Enter the name exactly as shown on the records from which the certification was prepared.

**Address** — Insert the address as listed on the request.

**EIN or SSN** — Enter the number as shown on the records from which the certification was prepared.

NOTE: If the name and/or EIN or SSN on record is different from that which is shown on the request, note and flag the request form (to be returned with the certification to the requester) that Name and/or EIN/SSN on record is not the same as shown on the request.

**Column "(a)" — Date:** Show the received date of a return or a remittance, the schedule date of a credit, refund or abatement, the first notice date, TDA issuance date (First notice date and TDA issuance date are not available on microfilm data). Enter all transaction dates except 23C date.

**Column "(b)" — Explanation of Transactions:** Record in this column a brief and clear explanation of each transaction, but no symbols or abbreviations may be used on Certified Form 4340, e.g., *full-paid returns* (indicates a return with remittance to cover the total amount due), *even return* (indicates a return in which payments, prepayment, estimated or withholding equals the total tax liability), *audit deficiency* (indicates a deficiency established by a revenue agent or office auditor).

Amounts and transaction explanations for amounts written off as uncollectible will *not* be shown on Certified Forms 4340.

Include an explanation for accrued interest and penalty.

**Column "(c)" — Assessment and Abatement:** Enter in this column the amounts of all assessments (tax, penalties, interest, etc.) against the taxpayer. Abatement of any assessment will also be shown in this column and the amount identified as a minus by enclosing the entry in brackets. For Non-Master File accounts, estimated tax debits will be shown only to the extent of the amount assessed, which will be equal to an amount paid or credited to the account.

**Column "(d)" — Credit and Credit Reversal:** Show the amounts of all payments and credits (not abatements) applied to reduce the taxpayer's liability. Also enter amounts of credit reversals, refunds, etc.

**Column "(e)" — Balance:** Show the amount due from the taxpayer (Column c minus d). Show amounts for accrued interest and penalty followed by an amount for total module balance. Credit balance due the taxpayer will be identified by the symbol "CR" immediately after the amount and enclosing the entry in brackets.

**Column "(f)" — DLN or Account Number:** Show the complete Document Locator Number or Account Number. This entry is optional.

**Column "(g)" — 23C Date:** Enter date of each assessment.

**Column "(h)" — Period Ending:** Show the taxable year or quarter, e.g., 9112 (tax period ending 12-31-91) 9206 (quarterly tax period ending June 30, 1992).



Form 5204 - Record of Accounts

Record of Accounts	Tax form number	Name	Employer identification or social security number	Date	
9112	1040	John Doe	XX XX - XX XX	10-01-92	
Year Period (Beginning or Ending)	Date of Credit or Assessment	Assessment	Credits	Account Balance	Remarks
	4/15/92	4,000		4,000	Original Tax
	4/15/92	8,000	5,000	-1,000	Withholding Credit
	6/01/92	1,000		-0-	Refund
	6/15/92	500		500	Amended Return
	6/15/92		250	250	Subsequent Payment
	6/30/92		250	-0-	Subsequent Payment

Department of the Treasury - Internal Revenue Service  
 U.S. Government Printing Office: 1989 - 311-870/881

Form 5204 (Rev. 7/84)

Form 5204 (Rev. 7/84)

Internal Revenue Service

Department of the Treasury

District  
Director

550 Main St., Cincinnati, OH 45202-3222

Person to Contact:  
Mark Huneke 31-03080


Telephone Number:  
513-263-3920


Refer Reply to:  
E:QMS:D:31201811

Date:

AUG 31 2000

Dear Mr. & Mrs.

This is in regard to your Freedom of Information Act request dated March 23, 2000, received in this office on April 25, 2000, concerning your AIMS File for tax years 1996, 1997, and 1998. 

With regard to the requested records, we have estimated the total number of requested documents to be 750 pages. The fee for photocopying the requested documents is \$130.00 (650 documents at \$.20 per page). 

As soon as we receive your payment in the amount of \$130.00, we will send you the documents along with an explanation of any documents that may be withheld. Your payment should be made by check or money order, payable to the Internal Revenue Service, and should be sent to IRS; Disclosure Office; P.O. Box 1818; Cincinnati, OH 45201.

If we do not receive your payment by September 30, 2000, we will assume that you no longer need the documents and that no further action on our part is necessary.

Sincerely yours, \_\_\_\_\_



Mark L. Groeschen  
Disclosure Officer

**Exhibit 120.1.6-1 (08/20/98)**  
**Forms Used in the Preparer Penalty Case File**

<u>Form</u>	<u>Description</u>
886-A	Explanation of Items—Unagreed Case
872-D	Consent to Extend Time on Assessment of Tax Return Preparer Penalty
895	Notice of Statute Expiration
2797	Referral Report for Potential Fraud Case
3198	Special Handling Notice—Annotate "Preparer Penalty Case" in the "Other" section
3244-A	Payment Posting Voucher
4318	Examination Workpapers
4318-A	Continuation of Examination Workpapers
4665	Report Transmittal—Unagreed Case
4700	Examination Workpapers
4700-A	Form 4700 Supplemental
5808	Return Preparer Penalty Follow-up
5809	Preparer Penalty Case Control Card
5816	Report of Income Tax Return Preparer Penalty—A separate form is required for each year/return.
5838	Waiver of Restrictions on Assessment and Collection of Tax Return Preparer Penalty—Unagreed Case
6459	Return Preparers Checklist—Prepare in duplicate. Needs group manager approval.
8278	Computation and Assessment of Miscellaneous Penalties—Instructions on back of form. A statute date must be inserted in box 6 in order for this penalty to be processed by ESP. This form is an assessment document, therefore a case with a short statute (as defined by the District) should follow district policy concerning short statute assessments. F-8278 is completed for each penalty.
8484	Penalty Information Report (formerly: Referral to the Director of Practice)



§ 6203. Method of assessment

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

Aug. 16, 1954, c. 736, 68A Stat. 768; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), 90 Stat. 1834.

Historical Note

1939 Internal Revenue Code. Similar provisions in this section were contained in section 3641 of the 1939 Internal Revenue Code.

Derivation. Section 3641, I.R.C.1939, was derived from U.S. § 3182.

1976 Amendment. Pub.L. 94-455 struck out "or his delegate" following "Secretary" wherever appearing.

Similar Provisions. Provisions similar to those in section 3641, I.R.C. 1939, were contained in the following prior Revenue Acts:

1872—Dec. 24, 1872, c. 13, § 2, 17 Stat. 402.

1866—July 13, 1866, c. 184, § 9, 14 Stat. 103.

1861—July 30, 1861, c. 173, § 20, 13 Stat. 220.

Legislative History. For a comprehensive analysis of this section as contained in House Report No. 1337, Senate Report No. 1022, and Conference Report No. 2543, which accompanied the Internal Revenue Code of 1954, see pp. 4552, 6221 of the 1954 U.S.Code Cong. and Adm.News. See, also, Pub.L. 94-455, 1976 U.S.Code Cong. and Adm.News, p. 2897.

Library References

Internal Revenue Code 1288.

C.J.S. Internal Revenue § 695.

Notes of Decisions

Administrative determination of tax liability, assessment as 3  
Construction 1  
Deposits for taxes 6  
Due process 2  
Necessity of assessment 4  
Validity of assessment 5

3. Administrative determination of tax liability, assessment as

An "assessment" is an administrative determination of tax liability and until the assessment has been made the tax has not been found to be owing. In re Western Trading Co., D.C.Nev.1972, 340 F.Supp. 1130.

Tax assessment by district director is an administrative determination of tax liability and is made by recording the liability in District Director's office. Kurlo v. U. S., D.C.Tex.1968, 281 F.Supp. 252.

4. Necessity of assessment

Defendant could not be guilty of concealment to defeat collection of taxes which had not yet been assessed when alleged concealment took place, and as to which, at such time, there had been no neglect or refusal to pay after notice and demand. U. S. v. Swarthout, C.A.Mich. 1970, 420 F.2d 831.

In order for tax liability to have been duly collected, it must have been proper-

ly assessed. Goets' Estate v. U. S., D.C. Mo.1968, 286 F.Supp. 128.

vestments, Inc. v. U. S., D.C.Kan.1967, 287 F.Supp. 932, remanded on other grounds 404 F.2d 314, on remand 310 F.Supp. 222.

5. Validity of assessment

Internal Revenue Service tax assessment certificate and notice of Dec. 3, 1971 were valid, where the certificate was machine recorded in the usual manner and formally signed and the notice mailed that very day; and the certificate was not voided by December 21 revision, which had nothing to do with the amount owed by plaintiff taxpayers. Heck v. Walters, C.A.Cal.1975, 523 F.2d 23.

Assuming that the officers of Internal Revenue Service who signed the estate tax assessment certificates were not assessment officers within meaning of Treasury regulation, the assessments were not void; signed assessment certificates on which no irregularity appeared on the face thereof were each de facto valid. Essex v. Vinal, C.A.Neb.1974, 499 F.2d 226, certiorari denied 95 S.Ct. 770, 419 U.S. 1107, 42 L.Ed.2d 803.

When the Commissioner assessed taxes against sole owner of corporation to extent of his beneficial interests in the corporation's transactions but excluded transactions wherein the beneficial interests belonged to such owner's clients, Commissioner drew the line improperly as to one transaction, because of the presence of a manifest relationship of either agency or trust or both under the facts. Carver v. U. S., 1909, 412 F.2d 233, 188 Ct.Cl. 202.

Where corporate taxpayer in 1953 had deposited with Director of Internal Revenue a certain sum in anticipation of its 1953 tax liability which was for that year reflected in consolidated income tax return of taxpayer's then parent corporation, action of Director in 1955 in crediting sum against taxpayer's assessed liability for 1954 resulted in granting to taxpayer of an erroneous refund of taxes paid, the recovery of which was subject to period of limitations applicable to recovery of erroneous refunds. C & R In-

6. Deposits for taxes

Where initial \$55,000 payment to government by administrator of the estate of deceased was made on the due date for filing estate tax return accompanied with request for an extension of time for filing return, the subsequent payment was made as payment of remainder of tax due as shown on return filed the same date and the last payment was in response to statutory notice of deficiency, these payments were intended not as deposits but as taxes, notwithstanding contention of administrator that suit to recover payments was not a suit against United States which was barred absent an effective waiver. Essex v. Vinal, C.A. Neb.1974, 499 F.2d 226, certiorari denied 95 S.Ct. 770, 419 U.S. 1107, 42 L.Ed.2d 803.

Taxpayer's mailing of check in response to statutory notice of deficiency did not amount to payment of tax but served as deposit to be utilized by government in event tax obligation was subsequently defined and imposed. Goets' Estate v. U. S., D.C.Mo.1968, 286 F.Supp. 128.

Money paid to Internal Revenue Service prior to imposition of valid tax assessment is a "deposit" rather than "payment". Id.

"Deposits" made with Internal Revenue Director in anticipation of an eventual assessment of taxes remain deposits only until tax liability is thereafter found to be due, and deposit then must be considered a "payment" for purpose of determining whether government's crediting of such deposit against taxpayer's assessed liability for subsequent years constituted an erroneous refund of taxes paid. C & R Investments, Inc. v. U. S., D.C.Kan.1967, 287 F.Supp. 932, remanded on other grounds 404 F.2d 314, on remand 310 F.Supp. 222.

§ 6204. Supplemental assessments

(a) General rule.—The Secretary may, at any time within the period prescribed for assessment, make a supplemental assessment whenever it is ascertained that any assessment is imperfect or incomplete in any material respect.

(b) Restrictions on assessment.—

For restrictions on assessment of deficiencies in income, estate, gift, and certain excise taxes, see section 6213.

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# Handbook 104.3

## AIMS/Processing Handbook

### Chapter 22

### Non-Master File (NMF) Processing

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- Exhibit [104.3] 22-1 Form 2467 (Assessment Label)
- Exhibit [104.3] 22-2 Form 1331-- Notice of Adjustment
- Exhibit [104.3] 22-3 Form 1331B-- Notice of Adjustment
- Exhibit [104.3] 22-4 Form 2468 (Overassessment Label)
- Exhibit [104.3] 22-5 Form 3539, Block Number Control
- Exhibit [104.3] 22-6 Form 813 (Document Register) Non-Master File Examined Closings Not Closed Through Terminals

#### [104.3] 22.1 (02-08-1999)

##### Introduction

1. This chapter contains procedures on Non-Master File processing.
2. Some returns have not yet been programmed to the Master File (MF). Also, certain Examination deficiencies cannot be processed to the MF. Adjustments to these returns and returns for pre-ADP periods

require forms and procedures different from those used in adjusting MF returns. Some additional code and edit procedures are necessary and blocking and numbering requirements are different.

### **[104.3] 22.1.1 (02-08-1999)**

#### **1999 Changes**

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

### **[104.3] 22.2 (02-08-1999)**

#### **NMF Research and Transcripts**

1. Researching NMF accounts is also different. There is a system consisting of Index Cards and Unit Ledger Cards (ULC) and an automated system. Manual Accounting Replacement System (MARS).

### **[104.3] 22.2.1 (02-08-1999)**

#### **MARS**

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

### **[104.3] 22.3 (02-08-1999)**

#### **NMF Assessments and Overassessments**

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

↙ [104.3] 22.3.1 (02-08-1999)

Assessments

- ↘
1. Determine the appropriate dates and compute the interest on a deficiency requiring NMF assessment.
  2. Interest amounts of less than \$1.00 will not be shown on Forms 5344, 5403 unless the amount has been paid.
  3. Form 2467 (see Exhibit 104.3.22-1) is to be affixed to the return and initialed. Show increases in tax, penalty and interest, add them, and show the total. If the IRC Section authorizing the assessment is known, insert it. The date of assessment is the 23C date. The new DLN is the account number.
  4. There are times when NMF assessments must be made on Forms 720. See IRM 104.3.3 for procedures on "direct assessment cases" and the preparation of Form 5734.

[104.3] 22.3.1.1 (02-08-1999)

Spousal Assessments

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

[104.3] 22.3.1.2 (02-08-1999)

NMF Assessment Verification

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

[104.3] 22.3.2 (02-08-1999)

Overassessments

1. A transcript of account (photocopy of unit ledger card) is required in the following instances.
  - A. If the return was not full-paid or overpaid.
  - B. If there is a record of an additional assessment having been made without a record of payment.
  - C. **EXCEPTION:**

No transcript is needed if there is a verified advance payment which completely paid the additional assessment.

2. A check for outstanding accounts, both MF and NMF, is required if the overpayment would result in a refund of \$1,000 or more, including allowable interest.
3. Form 1331 or 1331-B must be prepared with entries in Section 1 of the form in agreement with the amounts on the overassessment label. See Exhibits 104.3.22-2 and 104.3.22-3.
  - A. Refund-only Forms 1331, and strictly credit and abatement Forms 1331 should be blocked separately. If there is a combination refund, credit and/or abatement on the Form 1331, this is blocked separately from either of the above. Forms 1331 should be completely filled out, with the exception of the schedule number and date certified, down to and including the "Total abated and credited" line. The name and address and refund amount should be typed in and all other information should be either typed or written with a pen. They should be neatly prepared without corrections or deletions. The first name line on estate tax cases must show the name of the person to receive the check. A transcript of the account may be used for the record of assessment.
  - B. Compute the interest allowable on refunds, using the applicable space on the back of Form 1331. Enter in the "date" column the date to which interest is computed on the overpayment. Allowable interest is computed from the paid date or the due date, whichever is later, to the schedule date if a refund is involved, or the due date of the other account if a credit is involved.
  - C. If the account is not paid, the overpayment is entered as an abatement on the Form 1331. A copy of the ULC or a certified transcript of account is to be stapled to the reverse side of Form 1331 for

(Reference: Text 104.3.22.5.1 and 104.3.22.6.2)

<b>Block Number Control</b>				Page number
File Location Code	Tax Class	Document Code	Form number and title	Program Number
Date	Number		Item Count	Remarks
	Beginning	Ending		
<b>Total this page</b>			▶	
Cumulative total for week of _____			▶	
Cumulative total since January 1, 19 _____			▶	

Form **3539** (Rev. 12-92)

Cat. No. 223204

Department of the Treasury  
Internal Revenue Service

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

(Reference: Text 104.3.22.6.6.3)

Alpha/Numeric S.C. Block No.  1	Document Register		B I D o L c N k	2	Y R
	<input type="checkbox"/> Perfect <input type="checkbox"/> Regular	<input type="checkbox"/> Imperfect <input type="checkbox"/> Estimated			
Batch Or Number	Count Code	Trans. Code	Date 3		
		00			50
		01			51
		02			52
		03			53
		04			54
		05			55
		06			56
		07			57
		08			58
		09	4		59
		10			60
		11			61
		12			62
		13			63
		14			64
		15			65
		16			66
		17			67
		18			68
		19			69
		20			70
		21			71
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		37			87
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		39			89
		40			90
		41			91
		42			92
		43			93
		44			94
		45			95
		46			96
		47			97
		48			98
		49			99
5		Total	6		
7		Adjustment			
		Adjusted Total			

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↙ [9.1] 2.3 (06-30-1998)

## **AUTHORITY FOR CERTAIN INVESTIGATIVE TECHNIQUES**

1. During the course of an investigation many different techniques are used to obtain information. The following subsections will discuss the authority granted to the special agent to perform a few of these.

[9.1] 2.3.1 (06-30-1998)

### **Authority to Interview**

1. Internal Revenue Code section 7602 authorizes the Secretary of the Treasury or his delegate to examine books and records and to take testimony under oath.
2. Delegation Order No. 4 authorizes the special agent to issue and serve a summons, to examine books and records, to question witnesses, and to take testimony under oath.
3. Delegation Order No. 37 authorizes the special agent to administer oaths and to certify such papers as may be necessary under the Internal Revenue laws and regulations.

[9.1] 2.3.2 (06-30-1998)

### **Authority to Issue Summons, Examine Records, and Take Testimony**

1. The authority granted to the Secretary or his or her delegate by IRC 7602 to issue a summons, examine records, and take testimony is granted to the Commissioner of Internal Revenue by Treasury Decision 6118 approved December 30, 1954, published in the Federal Register on December 31, 1954 (19 FR 9896), and in turn granted to special agents as well as various other Service employees by Delegation Order No. 4. Detailed information about the summons is found in the Summons Handbook.
2. Delegation Order No. 4, as revised, authorizes the holders of the positions listed therein to perform the functions set out in sections 7602, 7603, 7604 and 7605(a) of the Internal Revenue Code of 1954. The listed position holders in Delegation Order No. 4, as revised, are also authorized by that Order to designate other Service employees before whom testimony will be given and papers produced. Delegation Order No. 4 also lists those who are designated to administer oaths or affirmations in Service matters (other than oaths of office) and to certify most Service documents.
3. The provisions of the law relating to the use and enforcement of a summons are contained in the following sections of the Internal Revenue Code of 1954:
  - A. IRC 7602--Examination of Books and Witnesses;
  - B. IRC 7603--Service of Summons;
  - C. IRC 7604--Enforcement of Summons;
  - D. IRC 7605--Time and Place of Examination;
  - E. IRC 7609--Special Procedures for Third-Party Summonses;
  - F. IRC 7610--Fees and Costs for Witnesses;
  - G. IRC 7622--Authority to Administer Oaths and Certify;
  - H. IRC 7402--Jurisdiction of District Courts;
  - I. IRC 7210--Failure to Obey Summons;
  - J. IRC 6420(e)(2), 6421(f)(2), 6424(d)(2), and 6427(g)(2) (gasoline, lubricating oil, and fuel credits).

4. Pursuant to 26 U.S.C. 7610, as enacted by Public Law 94-455, October 4, 1976 (Tax Reform Act of 1976) (IRC 7610), payments may be made to third parties who request reimbursement

for costs incurred in complying with a summons. Payments may be made to third parties without the issuance of a summons for records needed in an investigation which are available to the general public, under IRC 7801. Beside these sections of the Internal Revenue Code, additional authority is taken from Treasury Department Order No. 150-37, dated March 17, 1955, and IRS Delegation Order No. 178.

5. Delegation Order 178 governs matters delegated to the region and district. The Commissioner of Internal Revenue has delegated to the respective Regional Commissioners the authority to obligate appropriated funds for making payment for search costs, reproduction costs, and transportation costs in connection with complying with a third-party summons.

### **[9.1] 2.3.3 (06-30-1998)**

#### **Authority to Take Handwriting Exemplars**

1. Whenever an agent becomes aware that the authenticity or origin of a document may be questioned, he or she should attempt to obtain handwriting exemplars of the parties involved. The summoning of a taxpayer or other witness for the purpose of taking handwriting exemplars is within the authority of IRC 7602 U. S. v. Euge. This does not violate any Constitutional rights or policies enunciated by Congress. Compulsion of handwriting exemplars is neither a search or seizure subject to Fourth Amendment protections nor testimonial evidence protected by the Fifth Amendment privilege against self-incrimination. A handwriting exemplar is an identifying physical characteristic.

### **[9.1] 2.3.4 (06-30-1998)**

#### **Authority for Searches with Warrants**

1. The basic authority for making searches and seizures is in the Fourth Amendment to the Constitution of the United States which states: The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. The Fourth Amendment protects individuals against unreasonable searches and seizures by the government. The scope of this protection extends to any area in which an individual has a reasonable expectation of privacy. Further, the fourth<sup>th</sup> Amendment provides that all warrants shall be based upon probable cause and supported by oath or affirmation.
2. Section 7302 of the Internal Revenue Code of 1954 provides that it shall be unlawful to have or to possess any property used, or intended for use, in violating the provisions of the Internal Revenue laws, or regulations prescribed under such laws, and that no property rights shall exist in any such property.
3. Section 7608 of the Internal Revenue Code of 1954, as amended, authorizes special agents of CI to serve search warrants and to make seizures of personal property subject to forfeiture.
4. A search warrant may be issued as provided in Chapter 205, Title 18, United States Code, and the Federal Rules of Criminal Procedure, for the search of the personal property used, or intended for use, in violation of the Internal Revenue laws or regulations.
5. 18 USC 3105 and 3109, Rule 41 of the Federal Rules of Criminal Procedure (FRCrP), and 26 USC 7302, 7321, and 7608 contain the statutory authority pertinent to searches and seizures by special agents. Pertinent parts of Rule 41 provides for a warrant to be issued by a federal judge or magistrate upon the affidavit of a law enforcement officer. A warrant may be issued under this rule to search for and seize any of the following:
  - A. Property that constitutes evidence of the commission of a criminal offense.



- B. Contraband, the fruits of crime, or things otherwise criminally possessed.
  - C. Property designed or intended for use or which is or has been used as the means of committing a criminal offense.
  - D. Person for whose arrest there is probable cause, or who is unlawfully restrained.
6. The phrase, federal law enforcement officer, is used in this rule to mean any government agent, other than an attorney for the government as defined in Rule 54(c) who is engaged in the enforcement of the criminal laws and is within any category of officers authorized by the Attorney General to request the issuance of a search warrant.
  7. For more information concerning search authority and procedure see the Chapter on searches in the Investigative Techniques Handbook.

### [9.1] 2.3.5 (06-30-1998)

#### Authority for Warrantless Searches

1. Searches can be made without a warrant with the consent of the occupant of property or incident to a lawful arrest or search.
2. A search without a warrant may be made with the consent of the person who has the right to give such consent. The consent must be voluntarily given, and not be the result of acquiescence to avoid making resistance. Any coercion will invalidate the search and seizure. The courts have held that only persons whose constitutional rights have been violated will be heard in objection to the search. The rights guaranteed are personal and may be waived only by the person having the right of immediate possession. One person may not waive such rights for another unless the person so waiving is in authorized possession of the premises.
3. A person lawfully arrested may be searched without a warrant and the premises under his or her immediate custody and control may be searched for weapons.
4. For more information concerning search authority and procedure, see the Chapter on searches in the Investigative Techniques Handbook.

### [9.1] 2.4 (06-30-1998)

#### AUTHORITY TO ARREST

1. The authority of special agents to make arrests is contained in IRC 7608, as amended. This section provides, in part, that a special agent is authorized: to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States; to make arrests without warrant for any offense against the United States relating to the Internal Revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and to make seizures of property subject to forfeiture under the Internal Revenue laws.
2. The Supreme Court has stated that in the absence of a controlling federal statute, the law of arrest of the state where the arrest is made is controlling. In the absence of a statute authorizing a federal officer to make an arrest without a warrant, that officer has the same powers of arrest as a private citizen. A special agent's power to make an arrest without warrant as a private citizen, when valid under state law, is not made invalid because the crime is outside the scope of the Internal Revenue laws. An arrest without warrant is a serious matter and could subject the person making the arrest to criminal and civil liability for false imprisonment or false arrest. Therefore, in order for special agents acting as private citizens to be authorized to make a warrantless arrest, it is generally necessary that a violation constituting a felony be committed in

their presence or the special agent reasonably believes the person whom he or she arrests has committed a felony.

3. Every state has their own requirements in granting federal law enforcement officers state Peace Officer status. Even if Peace Officer status is recognized by your state, check with management in the IRS district before taking any position as a recognized Peace Officer. For information on the state recognition of federal law enforcement officers as Peace Officers, see Chapter 9.2.3, Use of Force Procedures, Exhibit 3-1, Peace Officer Status.

#### [9.1] 2.4.1 (06-30-1998)

##### Authority To Carry Firearms

1. There is no specific statutory authority for special agents to carry firearms. The General Counsel, Department of the Treasury, has concluded that no specific authority is necessary "where a federal officer has authority to make an arrest, he or she has implied authority to carry firearms." Authority for special agents to make arrests is contained in 26 USC 7608(b).
2. The authority to carry firearms is limited to the conduct of official duties in enforcing any of the criminal provisions of the Internal Revenue laws or other criminal provisions of laws relating to Internal Revenue where the enforcement is the responsibility of the Secretary or his/her delegate.
3. Authority to carry or use privately owned weapons during off-duty hours is as a private citizen subject to local civil and criminal restrictions. Special agents may not use their position or credentials to qualify under state or local laws to purchase, license, carry, or use private weapons. Credentials may be displayed as occupational identification, upon request, but not to influence any decision a state or local law enforcement officer may make concerning the special agent's ability to carry a concealed weapon.

#### [9.1] 2.5 (06-30-1998)

##### AUTHORITY TO COMPROMISE A TAX INVESTIGATION

1. The Secretary of the Treasury or the Secretary's delegate may compromise any civil or criminal tax case prior to referral to the DOJ (26 USC 7122(a)). The Secretary has delegated this authority to the Commissioner of Internal Revenue. (203 C.F.R. Sec. 601). Strict compliance with the statutory provisions is required to effect a compromise. Accordingly, attempted settlement by subordinate Service officials will not bar criminal prosecution. A valid compromise is as complete a discharge from prosecution as an acquittal by a jury.
2. CI makes investigations of offers in compromise in cases in which criminal proceedings are pending only as specifically requested by the Chief Counsel or Regional Counsel.
3. After referral of a case to the DOJ, authority to compromise rests with the Attorney General.
4. Tender of tax or actual payment thereof prior to a verdict or plea of guilty is not a bar to criminal prosecution.

#### [9.1] 2.6 (06-30-1998)

##### AUTHORITY TO SETTLE CRIMINAL CASES

1. When a taxpayer, represented by counsel, expresses a desire to negotiate a plea agreement prior to the formal completion of an administrative investigation, the special agent will advise taxpayer's counsel:
  - A. The IRS does not have the authority to engage in plea investigations because this

- E. years involved; and
  - F. probable tax violations.
2. If the request includes grand jury information, it should specifically authorize the disclosure of grand jury material to Service personnel in accordance with Rule 6(e) of the Federal Rules of Criminal Procedure. The authorization should include disclosure of information necessary to evaluate the request.

**[9.5] 2.3.1.3 (09-30-1998)**

**Chief's Review of Government Attorney Initiated Requests**

1. The Chief, or a designee, will review and analyze all financial and other relevant information to determine criminal prosecution potential within the Service's jurisdiction.
- 2. If the Chief believes that CI should participate in the grand jury investigation, then the Chief will advise the attorney for the government of the Service's procedure for approving the request, and will assign a special agent to prepare Form 9131, Request for Grand Jury Investigation.
3. If the Chief believes that CI should not participate in the grand jury investigation, then the Chief will advise the attorney for the government in writing, stating the reasons for not participating, and will return all grand jury materials together with a list of all Service personnel who had access to these materials.

**[9.5] 2.3.1.4 (09-30-1998)**

**Routing of Grand Jury Requests**

1. All tax grand jury requests must be approved by the Group Manager, Chief, and District Director. Where the request is routed after the District Director approves it depends upon the type of investigation.
2. All requests, other than OCDETF requests that involve potential tax violations, will be routed by the District Director to the appropriate Regional Counsel, or the Regional Counsel's designee.

**NOTE:**

If the request involves more than one district, the District Director will contact all of the other District Directors concerned prior to forwarding the request, and will document their concurrence in the investigation file. If the District Directors cannot agree, the originating District Director will forward the matter to the Director of Investigations responsible for the district for a final determination.

3. Counsel will, in turn, refer approved requests to the Department of Justice, Tax Division.
4. All requests of the type described in Department of Justice, Tax Division, Directive No. 96, concerning investigation of false refund claims, in violation of 18 U.S.C. 286 or 287, may be referred by Counsel directly to the U.S. Attorney, if the request involves:
  - A. an individual,
  - B. who for a single year files or conspires to file multiple tax returns in the names of nonexistent taxpayers,
  - C. with the intent of obtaining tax refunds.
5. A copy of the request for grand jury investigation letter from Counsel, together with a copy of Form 9131 and a copy of all exhibits must be sent to the Department of Justice, Tax Division, by overnight courier at the same time that Counsel refers a request for grand jury investigation directly to the local U.S. Attorney.
6. Where time is of the essence, the Chief may expedite a request for grand jury investigation of electronically filed false claims for refunds by obtaining approvals within the IRS by telephone, but must follow the approvals with written confirmation.
7. All OCDETF requests that involve potential tax violations will be routed from the District Director directly to the local U.S. Attorney, with an information copy sent to the Department of Justice, Tax Division.

**[9.5] 2.3.1.5 (09-30-1998)**

**Time Allotted for the Review of Grand Jury Requests**

1. Service initiated:
  - A. District Director--10 workdays of receipt
  - B. Director of Investigations (when applicable)--5 workdays of receipt

- A. using a grand jury would be more efficient, e.g., the administrative process cannot develop the relevant facts within a reasonable period of time;
  - B. an investigation has proceeded as far as the administrative process allows, but prosecution potential would be strengthened by the grand jury process.
2. An attorney for the government, such as an Assistant United States Attorney (AUSA), may ask for CI's assistance in an ongoing or proposed grand jury investigation whenever the information available to the attorney indicates possible commission of crimes under the jurisdiction of the Service.

### [9.5] 2.3 (09-30-1998)

## PROCEDURES INCIDENT TO GRAND JURY REQUESTS

1. The following procedures should be used for grand jury requests.

### [9.5] 2.3.1 (09-30-1998)

## Grand Jury Requests Involving Potential Tax Violations

- 1. In both Service initiated requests and requests initiated by an attorney for the government, the special agent must prepare Form 9131, Request for Grand Jury Investigation. This form must be signed by both the Chief, CI, and the District Director.
2. If this request contains any information governed by the grand jury secrecy provisions, the special agent must stamp or print on the top right hand corner of Form 9131 the phrase: "Caution: This document contains secret grand jury information." The special agent will also place a cover sheet over the request which states: "This report contains secret grand jury information."
3. If this request is replete with grand jury information, the special agent need not stamp each page, but instead use a cover sheet which states that certain pages contain grand jury information.
4. A Grand Jury Access List, Form 9510, must be attached to all grand jury requests.

### [9.5] 2.3.1.1 (09-30-1998)

## Service Initiated Requests

1. Service initiated requests should include:
- A. identification of the probable criminal subject(s), inclusive of all tax returns at issue, identification of all taxpayers involved, and all indications of wrongdoing which support the contemplated charges;
  - B. identification of potential witnesses, and recommendations as to the testimonial and documentary evidence to be sought before the grand jury;
  - C. a summary of the progress of the investigation to date, including all investigative steps taken, all evidence developed (including witnesses contacted and their testimony), and all summonses issued but not yet complied with (including the status of summons enforcement activities)
  - D. a summary of any existing or prospective civil actions against the subject(s);
  - E. the reason(s) why a grand jury investigation is being requested: (e.g., the need for quick action rather than the administrative process; the need for subpoenas rather than administrative summonses; any other relevant factors); and
  - F. the importance of the anticipated prosecutions to compliance.
2. Completed requests and supporting schedules will be forwarded as specified in this chapter at 9.5.2.3.1.4, below entitled "Routing Of Grand Jury Requests".

### [9.5] 2.3.1.2 (09-30-1998)

## Government Attorney Initiated Requests

1. Government attorney initiated requests for grand jury assistance should:
- A. be submitted in writing to the Chief, CI;
  - B. include the name and TIN of the subject(s);
  - C. include the names of other law enforcement agencies in the investigation;
  - D. any non-tax violations;

- C. Counsel--20 workdays of receipt
- 2. Attorney for the government initiated:
  - A. Chief (CI)--10 workdays of receipt
  - B. Director of Investigations (when applicable)--5 workdays of receipt
  - C. District Director--5 workdays of receipt
  - D. Counsel--10 workdays of receipt

**[9.5] 2.3.1.6 (09-30-1998)**

**Procedures to be Followed if Counsel Opposes a Grand Jury Request**

- 1. If  
Then  
Counsel opposes the request. . .  
Counsel must contact the Director of Investigations and discuss the request.  
Counsel still opposes the request  
If the Director of Investigations believes the request should be approved, it will be forwarded to the AC:CI.  
If the Director of Investigations concurs with Counsel, the request will be terminated.  
The AC:CI believes the request should be approved  
The AC:CI will send the request to the Assistant Chief Counsel (Criminal Tax) for reconsideration.  
The Assistant Chief Counsel (Criminal Tax) concurs with the request  
The Assistant Chief Counsel (Criminal Tax) will forward the request to the Department of Justice.  
The Assistant Chief Counsel (Criminal Tax) declines the referral  
The AC:CI may request reconsideration by the Associate Chief Counsel (Enforcement Litigation) whose decision will be final.
- 2. If Counsel opposes a supplemental grand jury investigation contained in a prosecution report, Counsel may either:
  - A. submit the report to the Department of Justice, Tax Division, recommending prosecution without including the request for a supplemental grand jury investigation; or
  - B. return the case to the district with a recommendation that it not be prosecuted, or that a supplemental administrative investigation be conducted.
- 3. In the event a request for grand jury assistance is not authorized, the original and all copies of the material will be returned to the Chief.

**[9.5] 2.3.1.7 (09-30-1998)**

**Procedures to be Followed if a Grand Jury Request is Declined by the Department of Justice**

- 1. When an attorney for the government decides not to approve a request to initiate a grand jury investigation of potential tax violations and/or nontax (e.g., "pure" money laundering) violations, and the request does not contain grand jury information, the Service may conduct an administrative investigation

**[9.5] 2.3.2 (09-30-1998)**

**Non-Tax Grand Jury Requests**

- 1. The Chief (CI) has the authority to directly refer matters involving 18 USC 1956 and 1957 and Title 31 to the U.S. Attorney, pursuant to Service Delegation Order No. 158 (as revised).
- 2. The procedures to follow for a money laundering (nontax) grand jury request are as follows:
  - A. A Service initiated request for a money laundering (nontax) grand jury investigation will be made by letter from the Chief to the attorney for the government. (This excludes a request for violation of 18 USC 1956(a)(1)(A)(ii) which is tax related, and for which the procedures in 9.5.2.3.1 et seq. must be followed).
  - B. The Chief will respond by letter to an attorney for the government seeking IRS participation in a money laundering (nontax) grand jury investigation.
  - C. This letter should specify the name and TIN of each subject, other investigating law enforcement agencies, types of nontax charges involved, and years involved.

FREEDOM OF INFORMATION ACT REQUEST

Local Disclosure Officer  
Internal Revenue Service

YOUR NAME  
YOUR ADDRESS

(local address)

Federal Identification #: \_\_\_\_\_

(and)

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

Dear Officer:

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

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

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

This request pertains to the years: \_\_\_\_\_

- 1. Please send me a copy of the Form 9131; Request for Grand Jury Investigation.

Dated:

Respectfully,

\_\_\_\_\_  
Requester

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

\_\_\_\_\_  
Requester

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND AFFIRMED:

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

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

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U.S. Department of Justice

United States Attorney  
Northern District of Texas

1100 Commerce St., 3-4 Fl.  
Dallas, Texas 75242-6804

Telephone (214) 659-3000  
Fax (214) 659-3000

COOPERATION AGREEMENT

I, \_\_\_\_\_, agree to provide complete and truthful answers to all questions asked of him by any federal law enforcement officer regarding his knowledge of any matters related to violations of federal criminal laws, including violations of Title 26 and Title 18 of the United States Code, and he agrees to testify truthfully at any trial, or before any Grand Jury, or at any related proceedings.

The United States of America ("the Government") agrees to not to prosecute \_\_\_\_\_ for his participation, if any, in any unlawful activities about which he provides information under this agreement or any related offenses. The Government further agrees that no testimony or other information provided by \_\_\_\_\_, or any information directly or indirectly derived from that testimony or other information, will be used against \_\_\_\_\_ in any criminal case, except for impeachment or in a prosecution for perjury or for knowingly making a false statement. The Government further agrees that the foregoing described immunity provisions of this agreement fully apply to \_\_\_\_\_, the spouse of \_\_\_\_\_.

\_\_\_\_\_ understands that: if he violates any provision of this agreement, the Government will be free from any obligations of the agreement and may prosecute \_\_\_\_\_ for all charges of which it has knowledge. In such event, any statements made by \_\_\_\_\_ under this agreement and all leads therefrom may be used against \_\_\_\_\_.

This document is a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties.

SO AGREED

\_\_\_\_\_

DATE

*Joseph M. Revesz*  
JOSEPH M. REVESZ  
Assistant U.S. Attorney

\_\_\_\_\_

DATE

Attorney for

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request Number
To: (Name of Taxpayer and Company, Division or Branch)	Subject:	1997 and 1998 tax returns
	Submitted to:	
	Dates of Previous Requests:	

Description of Documents Requested:

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

- A. Corporate Minute Book
- B. Stock Record Book
- C. General Ledger and subsidiary ledgers, if applicable, i.e. sales, purchases, accounts receivable, accounts payable, etc. for 1997 and 1998
- D. General Journal and subsidiary journals ~~Data: applicable,~~ i.e. sales, purchases, accounts receivable, accounts payable, etc. for 1997 and 1998
- E. Chart of Accounts
- F. Cash Receipts and Disbursements Journals, i.e. Check Register
- G. Listings of Beginning and Ending Accounts Receivable and Accounts Payable for 1997 and 1998
- H. Detailed Depreciation Sheets
- I. Accountant's workpapers regarding:
  - 1. Year-end worksheet reconciling books to return
  - 2. Year-end Adjusting Journal Entries and Closing Entries
  - 3. Year-end Bank Reconciliations
  - 4. Cost of Goods Sold
  - 5. Beginning and Ending Inventory Valuations
  - 6. Copies of financial statements prepared for you
- J. Copies of tax returns for 12/31/98 and 12/31/99
- K. Copies of all Officers and Shareholders' personal tax returns - Federal for 1997 and 1998
- L. Bank Statements and cancelled checks for 1997 and 1998
- M. 941's, 940, W-2's and 1099's for the 1997 and 1998
- N. Worksheets utilized to reconcile the "books" to your return
- O. Verification for the following items:
  - 1997
    - 1) Gross Receipts
    - 2) Cost of Goods Sold
    - 3) All Expenses
  - 1998
    - 1) Gross Receipts
    - 2) Cost of Goods Sold
    - 3) Sale of All business assets

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/ADMS/IMF/BMF23C record. If such record(s) have /has been deleted or substituted, this demand still applies.

Information Due By 8/30/00 At Next Appointment  Mail In

FROM	Name and Title of Requestor	Date: July 20, 2000
	Kathy S. Lindamood, Revenue Agent	
	Office Location: 201 Cleveland Ave., S.W. Canton, OH 44702	Phone: (330) 489-4520 FAX (330) 489-4513

Send a Bill

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MEN OF WEALTH.  
AS WE GO MARCHING.  
MEET YOUR CONGRESS.  
EPIC OF FREEDOM.

BY  
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FLYNN

THE  
ROOSEVELT  
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were to meet face to face. On the eve of an inauguration, the President-elect, according to tradition, makes a courtesy call on the President. In the afternoon of March 3, Mr. Roosevelt went to the White House. Hoover decided to use the opportunity to make one last appeal to Roosevelt. He renewed his pleas for approval of a proclamation stopping gold and currency withdrawals. Roosevelt replied that the late Thomas Walsh, his Attorney-General designate, had advised it could be done. But Walsh was dead and Homer Cummings, who would be Attorney-General, had not yet reported on it. Roosevelt thought Hoover could act legally, but *he was not sure* and this was as far as he could go. Roosevelt left Hoover at 5 P.M., saying: "I shall be waiting at my hotel, Mr. President, to learn what you decide."

That night Roosevelt's quarters in the Mayflower were filled with callers. At 11:30 the telephone rang. It was Hoover. He told Roosevelt he was still willing, with his consent, to issue the proclamation against hoardings and withdrawals. He asked Roosevelt if he agreed with him there should be no closings. Roosevelt answered: Senator Glass is here. He does not think it is necessary to close the banks—my own opinion is that the governors of the states can take care of closings wherever necessary. I prefer that you issue no proclamation of this nature. There the conversation ended. Roosevelt then told Glass that the Federal Reserve Board had urged Hoover to close the banks, that Hoover had refused saying most of the banks still open were solvent, and that he told Hoover Senator Glass agreed with him. Then Glass asked Roosevelt what he was going to do. To Glass' amazement, he answered: "I am planning to close them, of course." Glass asked him what his authority was and he replied: "The Enemy Trading Act"—the very act Hoover had referred to and on which Roosevelt had said he had no advice from Cummings as to its validity. Glass protested such an act would be unconstitutional and told him so in heated terms. "Nevertheless," replied Roosevelt, "I'm going to issue a proclamation to close the banks."

After this Moley and Woodin went to the Treasury where they found Mills, Ballantine, Awalt and Eugene Meyer hanging over banking figures. They had been calling up governors urging them

to declare holidays. They were agreed that when morning came all over the country there would be crowds of frightened depositors in front of their banks. And so it turned out. Thus the negotiations ended. By noon next day the responsibility would be out of Hoover's hands and in Roosevelt's. And he would have what he had been striving for—a total blackout of banking in the United States.

After delivering his inaugural address, Roosevelt issued a proclamation closing all banks. *The next problem was to open them.* It was assumed by everybody who watched these proceedings that Roosevelt had a plan of his own which he was keeping secret. The strangest feature of this whole comedy-drama is now to come. Having closed the banks, *Roosevelt had not the faintest notion how they were to be reopened. He had not the slightest plan of any kind in his mind. He had not even given the matter a thought.* This, I know, is difficult to believe. Yet it is true, as we shall now see.

By March 4, Roosevelt had decided on three things: (1) He would summon Congress in extra session. (2) He would declare an emergency under the Trading with the Enemy Act, having what Hoover did not have—a friendly Congress that would confirm his act. (3) He would summon the leading bankers to Washington. Congress was called to meet on the 9th. And Will Woodin assured Roosevelt he would have legislation dealing with the banking situation in time.

On Sunday, Moley and the new Attorney-General, Homer Cummings, worked on an emergency proclamation. This invoked the powers granted the President under the Trading with the Enemy Act passed in the First World War. It declared the four days from March 6 to March 9 a bank holiday, forbidding all banks to pay out either gold or currency but providing that the President might in that time permit any or all banks to carry on such transactions as they deemed proper. *In preparing this document, the draft already prepared by Mills and Ballantine for President Hoover was used.* It was issued on Monday, March 6. It was a clearly unconstitutional act but justified by the emergency provided Congressional confirmation could be quickly received and for this confirmation Roosevelt asked, though he had refused to tell Hoover he would do so.

Congress was summoned to meet on Thursday, March 9, and meantime a group of bankers was called in to confer on a plan for reopening the closed banks. While Roosevelt, Moley and Cummings worked in the White House over the proclamation, the bankers met with Woodin and later Moley in the Treasury. There were Melvin Traylor of Chicago, Henry P. Davison and Roy Harrison of New York, Eugene Meyer, Miller of Richmond, Berle, Glass, Congressman Steagall, Adolph Miller, and Ogden Mills and Arthur Ballantine, Secretary and Under-Secretary of the Treasury under Hoover who remained over to help.

The problem before them was how to reopen the banks. They argued all day Sunday. But no program was presented either by the bankers or the administration. Moley reported to Roosevelt at night that the talk had been "absolutely desultory." A sub-committee was named to work at night on plans. Both Moley, representing Roosevelt, and Ogden Mills, representing Hoover, agree that there was no plan, so that the statement I have made that Roosevelt when he closed the banks had no idea how to open them is confirmed.

On Monday, the 6th, various plans were brought forward. The problem could be stated simply. Many banks were absolutely sound. Many others—most others, in fact—were sound but they had been subjected to such excited runs that they were without ready currency to do business and might well be subjected to further runs. There were a number of banks which were unsound, did not have assets to cover 100 per cent of their liabilities and could not be safely opened.

Next, as almost all banks had suffered heavy withdrawals of currency, what would they use for money when they reopened? The problem was to get the currency and gold hoarders to return their hoarded dollars. But in the meantime, how would the banks be provided with fresh supplies of currency? Various suggestions were offered. Some urged the issuance of scrip, as had been used in former bank emergencies. Others were for issuing currency against the live assets of banks. There were proposals to convert Federal Reserve banks into banks of deposit, to guarantee the deposits in banks and to nationalize the banks. Ogden Mills reported in great distress to

Hoover that the administration had actually come forward with a proposal to print 20 billion dollars in currency and redeem the outstanding national debt. But Mills said that no two men at the conference agreed. Moley says that frayed tempers produced angry exchanges between the New Dealers themselves and that Berle hotly declared that no man at the conference made any sense but Ogden Mills.

Meantime Moley and Woodin met alone and agreed on certain fundamental ideas. They decided that the action must be swift and staccato for its dramatic effect; that the plan, whatever it might be, must be a conservative one, stressing conventional banking methods and that all left-wing Presidential advisers must be blacked out during the crisis; and finally that the President must make almost at the same time a tremendous gesture in the direction of economy. They felt that Hoover had been looked upon as an expensive President and that people must feel they now had a President who was neither radical nor extravagant.

The following day, March 7, the group agreed on a plan. Ogden Mills said he didn't particularly like it but that it was so much better than the things they escaped from that he would go along. Actually in drafting the bill the group had to depend on Hoover's Secretary and Under-Secretary of the Treasury "whose superb technical assistance," says Moley, made the task possible.

The chief point of disagreement had been on the method of creating fresh supplies of currency. On the night of the 6th, the consensus of opinion had been they must use scrip, which would have served well enough. However, the plan finally adopted came from William Woodin—namely to get authority from Congress to issue fresh supplies of Federal Reserve notes instead of scrip. They would look like money. They would actually be money. They would create less suspicion and resistance. The manner in which he came by this idea must not be overlooked.

Woodin told Moley he sat in his room, played on his guitar a little while, then read a little while, then slept a little while, then played on his guitar a little while again, read some more and slept some more and then thought about the scrip thing and then, by

gum! he hit on the idea of Federal Reserve notes and wondered why he hadn't thought of it before. Moley and Woodin rushed over to Roosevelt with the plan, told him about it in twenty minutes; Roosevelt was enthusiastic and so it was adopted.

Actually it was not so simple as that. Ogden Mills, who was one of the two or three men at the conference who knew what it was all about, said that as the discussions proceeded the big bankers came more and more into the ascendancy and that in the end Henry P. Davison, Roy Harrison, and Leffingwell and Gilbert of J. P. Morgan and Company, were chiefly responsible and that it was a bankers' plan.

The new Congress met at noon Thursday. Roosevelt's message was read and the bill introduced. This was the bill that was represented by a newspaper, as there had yet been no time to make copies. No one but the Congressional leaders had seen it and it was passed in an hour. A few hours later the Senate passed it. Briefly, it validated the things Roosevelt had done under the Trading with the Enemy Act, amended that act to give the President new powers over foreign exchange and banking institutions and the foreign and domestic movements of gold and silver, provided for issuance of Federal Reserve notes to banks up to 100 per cent of their holdings of bonds and 90 per cent of their holdings of rediscountable assets, provided for the progressive reopening of the banks by the Treasury and gave power to the Reconstruction Finance Corporation to subscribe to preferred stock of banking associations and make loans secured by preferred stocks.

The next day Roosevelt sent his now famous message to Congress deploring the disastrous extravagance of the Hoover administration, uttering many of those sentences about balancing the budget, the fatalities of government spending, etc., which were to be quoted against him so many times, and calling for powers to reduce salaries and government expenses. As one reads that message now it is difficult to believe that it could ever have been uttered by a man who before he ended his regime would spend not merely more money than President Hoover, but more than all the other 31 Presidents put together—*three times more, in fact, than all the Presidents from*

*George Washington to Herbert Hoover.* This speech was part of the plan Moley and Woodin had devised to sell the banking plan in a single package with the great economy program.

Then on Sunday, March 12, Roosevelt delivered his first fireside chat. He announced he would begin reopening the banks the next day and he made a simple explanation of the steps he had taken. It was a masterpiece of clear, simple, effective exposition. Like the inaugural address, it produced an electric effect upon the people. One feature about that address remains unknown to most people to this day and that is that it was written, not by Roosevelt or any member of his Brain Trust, but by Arthur Ballantine, Under-Secretary of the Treasury under Hoover, who with Ogden Mills, his chief, had remained at the Treasury to help pilot the country through its famous banking crisis.

To the great audience that listened to the fireside chat, the hero of the drama—the man whose genius had led the country safely through the crisis of the banks—was not any of the men who had wrestled with the problem, but the man who went on the radio and told of the plan he did not construct, in a speech he did not write. Thus Fate plays at her age-old game of creating heroes.

The whole episode reveals a side of Mr. Roosevelt's character not fully understood until later. This was the free and easy manner in which he could confront problems about which he knew very little. It would be very unfair to criticize Mr. Roosevelt because he knew so little about banking practice and literally nothing about banking economics. After all, there are many able men of whom this can be said. His experience had not been in this field and it was a subject to which he had given very little attention. This explains his almost total lack of serious interest in the banking situation as it unfolded in New York State while he was governor. But while in fairness we must recognize that his ignorance of banking problems was not a point to be held against him, it is equally clear that he cannot be held up as a great master-mind in finance who took the banking problem into the convolutions of his massive brain and ground out a solution in a few days. His one contribution to the banking negotiations was a purely political one—the decision that it would be

better for him politically to let the whole banking situation go to smash than to permit Hoover to check the crisis before he, Roosevelt, could get into the White House. But that was a costly thing for the nation.

When Roosevelt took office there were 19,000 banks in the country, mostly closed, all closed when he issued his decree. By March 16, about 9,883 were reopened fully and 2,678 on a restricted basis. But over 6,000 remained closed, many of which might have been saved in whole or in part if Roosevelt had been willing to open the way for the government to act after the crisis became acute in February.

That vast mercurial animal known as "The People" is indeed unpredictable. But this much we know of them. Once their imagination is captured by a leader he leads a charmed life as long as the spell lasts. In this case Roosevelt was hailed as a magician as he put into effect a plan worked out for him by bankers and announced it over the air in a speech written for him by one of Hoover's own Treasury officials.

In obedience to the program worked out by Woodin and Moley that the banking solution must be followed by a bold assertion of the policy of economy, his first message to Congress called for the passage of the economy act cutting salaries of government employees 25 per cent. Thus at a stroke he put at rest the apprehensions of conservative critics who suspected he might be in the hands of his radical brain-trusters.

## 4 } *The New New Deal*

IN THE BEGINNING, OF COURSE, WAS ROOSEVELT. AND THEN CAME the Brain Trust. After that we had the Great Man and the Brain Trust. The casual reader may suppose this is just a catchy collection of syllables. But it is impossible to estimate the power these few words exercised upon the minds of the American people. After all, a crowd of big business boobies, a lot of butter-fingered politicians, two big halls full of shallow and stupid congressmen and senators had made a mess of America. That was the bill of goods sold to the American people. Now amidst the ruins appeared not a mere politician, not a crowd of tradesmen and bankers and congressmen, but a Great Man attended by a Brain Trust to bring understanding first and then order out of chaos.

Actually there are no big men in the sense in which Big Men are sold to the people. There are men who are bigger than others and a few who are wiser and more courageous and farseeing than these. But it is possible with the necessary pageantry and stage tricks to sell a fairly bright fellow to a nation as an authentic BIG Man. Actually this is developing into an art, if not a science. It takes a lot of radio, movie, newspaper and magazine work to do it, but it can be done.

As Roosevelt began to lay out his plans for nomination by the Democratic Convention in 1932, one of his most pliant and faithful henchmen, Sam Rosenman, suggested that he ought to draw upon the universities for his advice rather than upon business men and politicians. Rosenman suggested Raymond Moley, professor of political science at Columbia and Roosevelt thought it an excellent

F. D. R.

*His Personal Letters*

---

1928-1945

I

*Foreword by*  
ELEANOR ROOSEVELT

*Edited by*  
ELLIOTT ROOSEVELT

*Assisted by*  
JOSEPH P. LASH

DUELL, SLOAN AND PEARCE  
*New York*

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day March 3d, I will deliver it into your keeping and mark the passage.

Would you be good enough to give the inclosed to my old friend the Chief Justice?

Very sincerely yours,

The old Dutch Bible on which F.D.R. wished to take his oath of office had been in the possession of his family for nearly three hundred years. For his first inauguration as President, F.D.R. selected the 13th Chapter of the First Epistle of Paul to the Corinthians as the place to which the book would be opened and on which he would place his hand.

The enclosed letter follows:

*F.D.R. to Charles Evans Hughes in Washington*  
(letter in F.D.R.L.)

NEW YORK CITY,  
FEB. 25, 1933

My dear Chief Justice:

I have written in detail to Mr. Cropley in regard to the taking of the oath of office, and he will talk with you about it.

May I tell you how very happy I am at the thought that you will administer the oath to me. In addition to our long time friendship and to my admiration and respect for you, I think it is interesting that a Governor of New York is to administer the oath to another Governor of New York.

I am looking forward with great satisfaction to our coming association and to seeing more of you than I have had the opportunity of seeing for many years.

Faithfully yours,



*Charles Evans Hughes to F.D.R. in New York*  
(letter in F.D.R.L.)

WASHINGTON,  
FEB. 28, 1933

My dear Mr. President-elect:

It gives me the greatest pleasure to receive your letter. It will be a high privilege to administer the oath of office and you will enter upon your great task with my heartiest felicitations and my earnest wish that you will have a most successful administration.

I am glad to have the suggestion that you repeat the oath in full instead of saying simply "I do." I think the repetition is the more dignified and appropriate course. Accordingly, as soon as you take your place on the stand, I will pronounce the words of the oath—"You, Franklin Delano Roosevelt, do solemnly swear" etc.—and then you may repeat the oath—"I, Franklin Delano Roosevelt, do solemnly swear," etc. As the oath is short, it may be better for me to give it in its entirety before you repeat it, although of course, if you prefer, you may repeat it after me phrase by phrase. I shall assume that the former method will be followed unless I hear to the contrary. I have told the Clerk to have a slip of paper ready with the exact words.

I cordially reciprocate the sentiments of friendship which you so kindly express, and I especially prize the opportunity of being associated with you in our great American enterprise.

Faithfully yours,



*F.D.R. miscellany (diary in F.D.R.L.)*

[THE WHITE HOUSE],  
MARCH 5, 1933

Attended St. Thomas' Church with entire family, returning in time for luncheon with family and friends.

Secretary of the Treasury in conference with Bankers and Officials all morning. Two-thirty P.M. meeting in Oval Room with all members of Cabinet, Vice-President and Speaker

Rainey, outlining banking situation. Unanimous approval for Special Session of Congress Thursday, March ninth. Proclamation for this prepared and sent. This was followed by conferences with Senator Glass, Hiram Johnson, Joe Robinson and Congressmen Steagall and Byrns and Minority Leader Snell—all in accord. Secretary Woodin reported bankers' representatives much at sea as to what to do.

Concluded that forty-eight different methods of handling banking situation impossible. Attorney General Cummings reported favorably on power to act under 1917 law, giving President power to license, regulate, etc., export, hoarding, earmarking of gold or currency.

Based on this opinion and on emergency decided on Proclamation declaring banking holiday from tonight through Thursday, March ninth. Secretary of Treasury to regulate partial reserves of banking facilities based on liquidity, clearing house certificates and trusteeing of new deposits. Attorney General, Secretary of the Treasury, Moley and Counsel Wyatt of Federal Reserve Board at work on Proclamation until 11 p.m. Hurried supper before Franklin, Jr. and John returned to school. Talked with Professor Warren in evening. Talked with representatives of four Press Associations explaining bank holiday Proclamation. Five minute radio address for American Legion at 11:30 p.m. Visit from Secretary of State. Bed.

Every now and then F.D.R. would start a diary and then give it up. His family states that he knew perfectly well when he started one he wouldn't keep it up, but sporadically he would feel that he should. This particular diary lasted exactly two days in the midst of the great banking crisis. In February, dwindling public confidence in the nation's banking system had led to panicky gold and currency withdrawals from all banks. By the beginning of March, twenty-one states had declared total and partial bank holidays. Other states soon followed. When Roosevelt took office the country's financial system was in a state of total paralysis. Opinion was divided among administration advisers and bankers on whether F.D.R. had the

power to proclaim a national bank holiday, needed to prepare emergency banking legislation and to take other steps for the restoration of public confidence in the banking system.

F.D.R.'s reference to a talk with Professor Warren is of interest. George F. Warren, professor of agricultural economics at Cornell, was an advocate of a "managed currency," based on the theory that price levels could be raised or lowered by changes in the price of gold. In his first press conference on March 8th, the President cryptically referred to the concept of a managed currency but refused to expand on what he meant. In his radio broadcast of October 22nd, F.D.R. fully embraced this theory but experience soon demonstrated that changes in the price of gold did not have the promised impact on price levels.

*F.D.R. miscellany (diary in F.D.R.L.)*

[THE WHITE HOUSE],  
MARCH 6, 1933

State funeral of Thomas J. Walsh, who was to have been Attorney General, Senate Chamber, ten o'clock. After funeral returned to President's room in Senate, conferred with majority and minority leaders, etc., and sent in nominations Phillips, Under Secretary of State, Wilbur J. Carr and Ray Moley, Assistant Secretaries. Henry Morgenthau, Jr., Chairman of Federal Farm Board. Stephenson and Webb as members of Home Bank Board. All nominations immediately confirmed. Senate Special Session adjourned "sine die."

Back to White House—East Room—Governors' Conference. About twenty Governors and representatives of twenty others. Spoke for forty-five minutes on land use, taxation, unemployment relief, etc. Left meeting in charge of Governor Pollard of Virginia, went to Executive Offices for first time. Discussed appointments, lunched with Governors at one o'clock—returned to Executive Offices—Governors' meeting reported at four o'clock. Saw Secretary of the Treasury—also farm leaders.

F.D.R.



The tragic and unexpected death of Senator Thomas J. Walsh was a serious blow to F.D.R. Walsh was famous for his fearlessness and integrity. It had been under his leadership that the Teapot Dome scandals were exposed.

The Governors' Conference, which was meeting in the East Room, had convened on the invitation of F.D.R. to discuss with him problems which would require federal-state cooperation in their solution. The banking crisis prevented F.D.R. from giving the conference the attention he had anticipated when he had sent out the invitations early in February. The resolutions, signed by Republican and Democratic governors alike, called on the country to unite behind the new President.



F.D.R. to Samuel I. Rosenman in New York (letter in F.D.R.L.)

THE WHITE HOUSE,  
MARCH 9, 1933

Dear Sammy:

I am waiting to hear what the Congress will do with my first bill. We worked until two o'clock this morning preparing it and it seemed queer to do this kind of work without you. After four years of such close association it is not easy to work with others.

I want you to know how grateful I am for the fine loyalty you have shown and for the unselfish service you gave me during the campaign. Even though you were not with me all the time I knew how hard you were working behind closed doors in smoke-filled rooms, and your contribution of Ray and Rex was probably the best that anyone made during the whole campaign.

I hardly need tell you that I want you to feel perfectly free to telephone or come to see me at any time. If I can be of help to you please let me know. I do hope that we will see you and Dorothy here in Washington often. Our contact has been too close to need constant correspondence or conversations. I just

want you to know of my feeling toward you and my gratitude for all that you did.

As ever yours,

F.D.R.'s phrase, "Your contribution of Ray and Rex," referred to Judge Rosenman's suggestion to F.D.R. in March, 1932, that F.D.R. try the universities for men technically qualified to prepare a national program.

The President's first bill was the Emergency Banking Act, which authorized the government to reopen sound banks immediately, and to reopen the others after reorganization.

The special session of the Seventy-third Congress convened at noon of March 9th. The House spent three hours in organization and an hour later the President's first bill was passed by acclamation. In the Senate it passed by 73 to 7 after three hours of debate. It was signed by the President at 8:37 P.M.



F.D.R. to James M. Cox in Dayton, Ohio (letter in F.D.R.L.)

THE WHITE HOUSE,  
MARCH 9, 1933

Dear Jim:

Now that my emergency banking message has gone to the Congress I have a little time to turn around to consider the implementing of the new Administration. As you know, the problem of world relations is going to be of at least equal importance during the next four years, and the key localities will be Berlin, Paris and London.

I regard Berlin as of special importance at this time, for many reasons which you will understand. The future of the League of Nations and our cooperation with the League are also very definitely linked to German action.

It is not only because of my affection for you but also because I think you are singularly fitted to this key place, that I want much to send your name to the Senate as American Ambassador to Germany. I hope much that you will accept after talking it over with your delightful wife, who, by the way, would be

perfect as the wife of the Ambassador. Do send me a telegram saying yes. I think it could be arranged for you to have several weeks to clean up your important personal affairs before leaving.

With my warm regards to you both,

As ever yours,

James M. Cox had been the Democratic candidate for President in 1920, when F.D.R. was the vice-presidential candidate. He decided not to accept F.D.R.'s offer since he was engaged in the operation of several newspapers which he owned, as well as other business enterprises which he did not want to leave.

F.D.R.'s concern with Germany was well founded. On January 30, 1933, Hitler had become Chancellor of Germany and forthwith proceeded to destroy the Weimar Republic and establish a totalitarian Reich. There was great fear in Europe that he was about to repudiate the disarmament provisions of the Versailles Treaty. It was Roosevelt's hope, at this point, that in return for a pledge on our part to cooperate with the League of Nations in the event of aggression, France and the other victor powers would agree to scale down their armaments to the German level, thereby eliminating Hitler's cry of inequality and making general disarmament possible.

The Berlin post was not filled until June, when F.D.R. appointed William E. Dodd, a distinguished historian and teacher, whose name had been suggested by Dan Roper.

*F.D.R. to John S. Lawrence in Topsfield, Mass.  
(letter in F.D.R.L.)*

THE WHITE HOUSE,  
MARCH 13, 1933

Dear Johnny:

Thank you for that nice telegram. I was sorry I did not have a chance to see you before I left New York but, as you can imagine, it was one grand rush with all the banks ready to topple and your boy friend with no power to act! However, we seem to be off to a good start and I hope to get through some

important legislation while the feeling of the country is so friendly.

Always sincerely,

John Lawrence, New England merchant and banker, was an old friend of F.D.R. and had been on many cruises with him. Being a Republican, he wired F.D.R. that in the banking crisis F.D.R. had acted with the character of Lincoln and the timing of Coolidge.

*F.D.R. to Mrs. Roosevelt (F.L.)*

THE WHITE HOUSE,  
MARCH 17, 1933

Dearest Babs:

After a fruitless week of thinking and lying awake to find whether you need or want undies, dresses, hats, shoes, sheets, towels, rouge, soup plates, candy, flowers, laxation pills, whisky, beer, etchings or caviar

I GIVE IT UP

And yet I know you lack some necessity of life—so go to it with my love and many happy returns of the day!

F.D.R.

March 17th was the Roosevelts' wedding anniversary.

*F.D.R. to Josephus Daniels in Washington (letter in F.D.R.L.)*

THE WHITE HOUSE,  
MARCH 27, 1933

Dear Chief:

When I get a chance I will say something about maintaining the work of the Universities and schools. One of the difficulties is that most of the College Presidents and Commissioners of Education have been unwilling to cut costs in proportion to

their enterprises. In most parts of the country the past decade has seen a very large increase in teachers' salaries, and even if all teachers were cut 15%, like government employees, they would still be getting relatively more than in 1914!

Always sincerely,

Daniels, whom F.D.R. appointed Ambassador to Mexico, was concerned because state legislatures were drastically reducing educational appropriations. He thought a statement by F.D.R. could check the tide. F.D.R.'s reaction to Daniels' letter reflects the battle he was having with Congress over the Government Economy Act, which authorized the administration to reduce the salaries of government employees by fifteen per cent and to reduce veterans' allowances.



*F.D.R. to Joseph P. Kennedy in West Palm Beach  
(letter in F.D.R.L.)*

THE WHITE HOUSE,  
MARCH 29, 1933

Dear Joe:

I am sorry not to have written before to thank you for your awfully nice telegram. It was good of you to take the trouble to tell me of what you had heard.

We are all keeping our fingers crossed and hoping to get in some real work while the temper of the country and the Congress is so pleasant.

Do be sure to let us know when you are going through Washington and stop off and see us.

My best wishes,

Always sincerely,

Getting things done while Congress and the country were in the mood for action was a cardinal principle with F.D.R., who in his moments of greatest public support was always aware of the transitoriness of public opinion.



*F.D.R. to Waldorf Astor in London (letter in F.D.R.L.)*

THE WHITE HOUSE,  
APRIL 1, 1933

My dear Waldorf:

Many thanks for your note. I shall be delighted to read the advance copies of Keynes' articles when they come. We *must* bring these problems to a satisfactory solution.

Give my warm regards to Nancy. I cannot let Mama go over because I am sure she would cancel all the debts!

Always sincerely,

William Waldorf Astor, the husband of M.P. Nancy Astor, had written F.D.R. recommending the views of John Maynard Keynes. The Astors were good friends of the President's mother.



*F.D.R. to James A. Farley in Washington (letter in F.D.R.L.)*

THE WHITE HOUSE,  
APRIL 2, 1933

Dear Mr. Postmaster General:

The item in my collection which for me will always have the greatest personal historic interest is the Newburgh Commemorative Stamp, the first copy of which comes with your letter from Newburgh. I shall always remember that it is the first stamp to be issued under the administration of my Postmaster General, to whom I send my affectionate regards.

Always sincerely,

The first stamp released after F.D.R. took office was a Proclamation of Peace commemorative. It was issued on the one hundred and fiftieth anniversary of General Washington's proclamation of peace and was placed on sale at Newburgh. The stamp bore a picture of Hasbrouck House at Newburgh, Washington's headquarters from 1781 to 1783.



F.D.R. to Edward M. House in New York (letter in F.D.R.L.)

THE WHITE HOUSE,

APRIL 5, 1933

Dear Colonel House:

For one whole month I have been meaning, day by day, to telephone you or write you but I have realized that through the papers you know as much or more of what is going on than I myself do. And, too, I have felt sure that you would let me know at once if you had any suggestions or specially important information.

The course of the first week was almost automatically laid out for me because of the banking emergency but in spare moments, with the help of Lewis Douglas, who, by the way, is in many ways the greatest "find" of the administration, I got the Economy bill launched and have followed it up with simple messages on one topic at a time. In the fine temper of the country this plan is proving effective, though, of course, in a period of lack of interest, I would be accused of boring the Congress and the people with too much conversation and too many new ideas.

While things look superficially rosy, I realize well that thus far we have actually given more of deflation than of inflation—the closed banks locked up four billions or more and the economy legislation will take nearly another billion out of Veteran's pay, departmental salaries, etc. It is simply inevitable that we must inflate and though my banker friends may be horrified, I still am seeking an inflation which will not wholly be based on additional government debt.

The Cabinet is a grand success—all of them working harmoniously—and I may add that I am hurling so many problems and so many tasks at their devoted heads that I hope they will not have any physical breakdowns.

I saw our Japanese friend but thought it inadvisable to converse more than formally—he has made the error of talking for quotation to newspaper men indiscriminately and his suggestion to us in regard to where we should keep our own fleet has

brought me thousands of protests. I am wondering if he said this in order to ingratiate himself against assassination by the Junker crowd when he gets home.

That letter of Wickham Steed, which I am returning herewith, is interesting but I do not think the world is ready to make the President of the United States the arbiter on matters of war and peace!

I do hope you and Mrs. House will surely come down here before you go to the north shore.

As ever yours,

Lewis W. Douglas, the "find" of the administration, was Director of the Budget. F.D.R.'s admiration of him was such that he had asked him to sit in at Cabinet meetings.

F.D.R.'s suggestion of an inflation which would not increase the government debt probably referred to measures such as were incorporated in the Thomas "inflation" amendment to the A.A.A., which authorized the issuance of three billion dollars in greenbacks and fifty-percent devaluation of the dollar.

The "Japanese friend" was Yosuka Matsuoka, whose acquaintance associates of Woodrow Wilson had made during Versailles days at the end of World War I. Matsuoka called on F.D.R. on his way back to Japan from Geneva, where he had led the Japanese delegation which walked out of the League because of its condemnation of the Japanese seizure of Manchuria. En route from Geneva, he had issued a public statement deploring Secretary of Navy Swanson's announcement that our fleet would be kept in the Pacific. He said this would add fuel to Japanese resentment against the United States. As time went on Matsuoka became more and more anti-American, and as Foreign Minister during the period before Pearl Harbor actively promoted the Rome-Berlin-Tokyo Axis.

Wickham Steed, right-hand man to Lord Northcliffe, was editor of the *London Times*.

∞

# ABSTRACT OF JUDGMENT

## NOTICE

Pursuant to Title 28, United States Code, Section 3201, this judgment, upon the filing of this abstract in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of 26 U.S.C. §6323(f), creates a lien on all real property of the defendants(s) and has priority over all other liens or encumbrances which are perfected later in time. The lien created by this section is effective, unless satisfied, for a period of 20 years and may be renewed by filing a notice of renewal. If such notice of renewal is filed before the expiration of the 20 year period to prevent the expiration of the lien and the court approves the renewal, the lien shall relate back to the date the judgment is filed.

USAO Number:

Court Number:

Names and Addresses of Parties against whom judgments have been obtained	Names of Parties in whose favor judgments have been obtained
	UNITED STATES OF AMERICA
SSN: .	

Amount of Judgment	Names of Creditors' Attorneys	Docketed
\$117,290.12	<b>P. MICHAEL PATTERSON</b> ATTN: FINANCIAL LITIGATION UNIT United States Attorney 111 N. Adams St., 4 <sup>th</sup> Floor Tallahassee, FL 32301	
TOTAL AMOUNT OF JUDGMENT		
PLUS POSTJUDGMENT INTEREST		

UNITED STATES OF AMERICA

CLERK'S OFFICE

U.S. DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
SS.

**I CERTIFY** that the foregoing is a correct Abstract of the Judgment entered or registered by this Court.

\_\_\_\_\_  
City

\_\_\_\_\_  
Date

ROBERT A. MOSSING, Clerk.

By \_\_\_\_\_, Deputy Clerk.

Exhibit 3(17)(46)0-6

Abstract Chart

**ABSTRACT NUMBER CHART**

ABSTRACT NUMBER	DOC CODE	MFT	BLOCK SERIES	DESCRIPTION
True Tax Class 1 (Withholding & FICA)				
.	24		100-199	Credit Adjustments
.	27		100-199	Subsequent Payments
.	28		100-199	NMF TDA Payments
001	33	12	000-999	1042 and 4277
001	41	17	000-999	941 Pre-ADP, 941
001	41	17	910-919	941 NMI
001	42	18	000-999	942 Pre-ADP, 942
001	43	19	000-999	943 Pre-ADP, 943
.	47		100-199	Audit Deficiency
.	54		190-198	Trust Fund Recovery Penalty F2749
.	62		100-199	Assessed Advance Pymt
.	74		100-199	Misc. Revenue
.	75		100-199	FTD WFT/FICA
.	76		100-199	Deposit Fund Applied
.	87		100-199	Dishonored Check
208	41	17	920-929	8258 with remit
208	41	17	300-319	8258 non-remit
215	29	08	000-999	8805
215	29	08	000-199	8804 non-remit
215	29	08	200-599	8804 with remit
215	29	08	100-149	8813 with remit
True Tax Class 2 (Individual Income)				
004	10	20	000-999	1040 Pre-ADP, 1040, 1040NMI
.	24		200-299	Credit Adjustments
.	27		200-299	Subsequent Payments
.	28		200-299	NMF TDA Payments
.	62		200-299	Assessed Advance Pymt
004	7273	30	600-999	1040 NR
.	47		200-299	Audit Deficiency
005	44	21	000-999	1041 50,000 (+) Pre-ADP, 1041
155	81	38	000-999	1041A
.	74		200-299	Misc. Revenue
.	76		200-299	Deposit Fund Applied
.	87		200-299	Dishonored Checks
004	65	35	500-999	1065
211	23	99	300-599	8697
212	23	99	600-999	8697
004	54	20		IRC 7803(c)

\* Multiple Abstract Numbers apply based on original assessment document

Abstract Chart

**ABSTRACT NUMBER CHART**

ABSTRACT NUMBER	DOC CODE	MFT	BLOCK SERIES	DESCRIPTION
True Tax Class 3 (Corporation)				
.	24		300-399	Credit Adjustments
.	27		300-399	Subsequent Payments
.	28		300-399	NMF TDA Payments
006	69	23	300-399	1120 DISC Penalty
006	20	23	200-299	1120-IC-DISC
.	74		300-399	Misc. Revenue
.	75		300-399	FTD NMF Corp.
.	76		300-399	Deposit Fund Applied
.	87		300-399	Dishonored Checks
006	15	32	000-999	1120L, 1120M
006	18	31	000-999	1120-S 1,000,000(+) Pre-ADP, 1120S
006	17	31	000-999	1120-S 1,000,000(-) Pre-ADP
006	20	32	100-299	1120 Pre-ADP, 1120, 1120ND
006		25		958
006	26	26		959
.	62		300-399	Assessed Advance Pymt
006	66	32	300-399	1120-F Non-Effectively Connected
006	67	32	300-399	1120-F Effectively Connected
006	66	38	000-999	2438
.	47		300-399	Audit Deficiency
007	92	33	000-999	990-C
207	60	07	400-499	1066 with remit
207	60	07	000-399	1066 non-remit
210	23	69	000-299	8697
008	93	34	000-999	900-T
009	69	23	300-349	8404 with remit
009	69	23	600-699	8404 non-remit
	66	12	600-699	1042S
191	80			8038
True Tax Class 4 (Excise)				
	30	45	000-999	720:
014	30			Gasoline (Retailers tax) noncommercial aviation
022	30			Telephone service
026	30			Transportation of person by air
027	30			Use of international air travel facilities
028	30			Transportation of property by air
030	30			Policies issued by foreign insurers

\* Multiple Abstract Numbers apply based on original assessment document

## Exhibit 3(17)(46)0-6 Cont. (2)

## Abstract Chart

ABSTRACT NUMBER CHART

ABSTRACT NUMBER	DOC CODE	MFT	BLOCK SERIES	DESCRIPTION
True Tax Class 4 (Exclse)				
032	30			Pistols-Revolvers
033	30			Truck, bus, and chassis and bodies
034	30			Other auto chassis, etc.-Repealed 12-11-71 No., 36-39 Black Lung Benefits Revenue Act 1977
036	30			Underground coal mined @ 50 cents per ton
037	30			Underground coal mined @ 2% limit per ton price
038	30			Surface coal mined @ 25 cents per ton
039	30			Surface coal mined @ 2% limit per ton price
041	30			Fishing rods, etc. and Artificial lures, etc.
044	30			Bows and arrows
046	30			Firearms
048	30			Parts and accessories for trucks, etc.
049	30			Shells and cartridges
060	30			Sugar-Terminated 06-30-75
061	30			Diesel fuel and special motor fuels
062	30			Gasoline (manufacturers tax)
064	30			Fuel (inland waterways)
068	30			Tread rubber
069	30			Aviation fuel noncommercial, other than gasoline
030	32	81	400-499	925 with remit
030	32	81	000-099	925 non-remit
070	26		000-999	5110.32; 5110.35
072	26		000-999	5110.60; 5110.39
071	26		000-999	Penalties-Seizures
131	12	95	000-999	11-B
135	13	97	000-999	730
087	25		000-899	5120.7;5120.37;5600.5
093	25		000-999	5130.7; 5600.5
	37		000-899	2137; 5210.11; 5210.7; 5600.5;
102	37			Cigars, large up to \$20 per thousand
103	37			Cigars, large more than \$20 per thou.
112	37			Cigars, small
113	37			Floor Stock Tax-Cigarettes
114	37			Cigarettes-large
115	37			Cigarettes, small
117	37			Tobacco Manufacturing



## Exhibit 3(17)(46)0-6 Cont. (3)

## Abstract Chart

**ABSTRACT NUMBER CHART**

ABSTRACT NUMBER	DOC CODE	MFT	BLOCK SERIES	DESCRIPTION
True Tax Class 4 (Excise)				
118	37			Tobacco Materials - Vici.
119	37			Cigarette papers
120	37			Cigarette tubes
121	37			Cigar prepayments
122	37			Cigarette prepayments
137	82			Stamp Sales
129	80	49	000-999	3780; 3780-A
134	03	96	000-999	11-C
138	95	93	000-999	2290
148	38	48	000-999	4638
149	91	44	000-999	990-PF
	71	66	000-999	4720A:
150	71			- Self Dealing
151	71			- Undis. Income
152	71			- Excess Holding
153	71			- Investments which Jeopardize
154	71			- Taxable Expenditures
213	71			-
214	71			-
185, 186	88	58	000-999	990-BL
187	89	57	000-999	6069
	35	76	600-799	5330 with remit
	35	76	500-599	5330 non-remit
163	35			Part I, Failure to Meet Minimum Funding
164	35			Part II, Excess Contributions
159	35			Part III, Prohibited Transactions
161	35			Part VII, Tax on Nondeductible Employer Contributions to Qualified Plans
200	35			Part IV, Disqualified Benefits
201	35			Part V, Excess Fringe Benefits
202	35			Part VI, Certain ESOP Distribution
205	35			Part VIII, Excess Contribution
203	35			Part IX, Prohibited Allocations (ESOP)
204	35			Part X, Reversion of Plan Assets
208	35			IRC 4974, Excess Accumulations
209	35			IRC 4978A, Tax on Plans or Cooperatives
				Disposing of Employer Securities to which IRC 2067 Applied
216	21	27	000-999	8725 non-remit
216	21	27	400-499	8725 with remit
221	21	89	000-999	8831 non-remit
221	21	89	400-499	8831 with remit
192	21	89	100-999	8612 with remit
192	21	89	000-999	8612 non-remit
193	22	12	300-999	8613 with remit
193	22	12	000-299	8613 non-remit
180		29		5329 Tax on Excess Contribution IRA

## Exhibit 3(17)(46)0-6 Cont. (5)

## Abstract Chart

ABSTRACT NUMBER CHART

ABSTRACT NUMBER	DOC CODE	BLOCK SERIES	DESCRIPTION	CIVIL PEN REF NUM
PENALTY ASSESSMENTS				
	55/47		RPP Penalties - IRC Sec:	
173			6604(a) - Negligence	622
174			6604(b) - Willful Understatement	622
181			6605(f) - Negotiation of TP's Check	626
			Failure to:	
175			6605(a) - Furnish Copy to TP	624
176			6605(b) - Sign Return	624
177			6605(c) - Provide TIN	624
178			6605(d) - Retain Copy of List	624
179			6605(e)1 - File Info Return	624
180			6605(e)2 - Include All Items	624
170	55	420-424	Child Support	
172	65	000-049	TIN Penalties -	
155			Form 990 - Addnl Penalty	
157			Form 990AR - Addnl Pen	
156	55		6684 - Chapter 42 Pen	
157	55		6685 - 990AR Penalty	
158	55		507(c) - Termination of PF Status	
	55	950-999	EP Penalties	
			Failure to:	
165			6652(d)(1) - File Annual	
			Registration Statement	
166			6652(d)(2) - File Notification	
			of Change	
167			6652(e) File Statement Required by	
			Sec 6947 or 6058	
168			6690 - Furnish Individual Statement	
169			6692 - File Actuarial Report	
171			6693 - Provide Reports IRA	620
	55/51/47		Civil Penalties	
139	& 65		6652(a)(1), (2), (3), & (b)	600
192			6676(a)28604	
192	& 65		6676(b)	602
192			6676(b) (addnl assessmnt)	603
194			6679	613
195			6682 (W-4 Pen)	618
200			6705	632
201			6707	634
202			6708	636
	55/51/47	190-199	TEFRA Penalties - IRC Sec:	
188			6700 - Abusive Tax Shelter	628
189			6701 - Aiding & Abetting	630
190			6702 - Frivolous Return	666

**Exhibit 9440-1**

Document 5661

Insert

**STATEMENT OF RIGHTS  
(IN-CUSTODY)**

Before we ask you any questions, it is my duty to advise you of your rights.

You have the right to remain silent.

Anything you say can be used against you in court, or other proceedings.

You have the right to consult an attorney before making any statement or answering any question, and you may have an attorney present with you during questioning.

You may have an attorney appointed by the U.S. Magistrate or the court to represent you if you cannot afford or otherwise obtain one.

If you decide to answer questions now with or without a lawyer, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting a lawyer.

HOWEVER-

You may waive the right to advice of counsel and your right to remain silent, and you may answer questions or make a statement without consulting a lawyer if you so desire.

Department of the Treasury  
Internal Revenue Service

Document 5661  
(Rev. 8-82)

(front)

**STATEMENT OF RIGHTS  
(NON-CUSTODY)**

At the outset of your first official meeting with the subject of an investigation-

Identify yourself as a special agent of IRS and produce authorized credentials.

THEN STATE:

"As a special agent, one of my functions is to investigate the possibility of criminal violations of the Internal Revenue laws, and related offenses."

"In connection with my investigation of your tax liability (or other matter) I would like to ask you some questions. However, first I advise you that under the 5th Amendment to the Constitution of the U.S. I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way. I also advise you that anything which you say and any documents which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of any attorney before responding."

"Do you understand these rights?"

Department of the Treasury  
Internal Revenue Service

Document 5661  
(Rev. 8-82)

(reverse)

# Exhibit 9440-2

## Form 5228

Form <b>5228</b> (April 1974) Department of the Treasury Internal Revenue Service	<h3>Waiver of Right to Remain Silent and of Right to Advice of Counsel</h3>
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### Statement of Rights

Before we ask you any questions, it is my duty to advise you of your rights.

You have the right to remain silent.

Anything you say can be used against you in court, or other proceedings.

You have the right to consult an attorney before making any statement or answering any question, and you may have him present with you during questioning.

You may have an attorney appointed by the U.S. Magistrate or the court to represent you if you cannot afford or otherwise obtain one.

If you decide to answer questions now with or without a lawyer, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting a lawyer.

### However --

You may waive the right to advice of counsel and your right to remain silent, and you may answer questions or make a statement without consulting a lawyer if you so desire.

### Waiver

I have had the above statements of my rights read and explained to me and fully understanding these rights I waive them freely and voluntarily, without threat or intimidation and without any promise of reward or immunity. I was taken into

custody at \_\_\_\_\_ (time), on \_\_\_\_\_ (date), and have signed this document at \_\_\_\_\_

(time), on \_\_\_\_\_ (date).

\_\_\_\_\_  
(Name)

### Witnesses:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

## Exhibit 9440-3

## Form 1327-A

## Arrest Report

1. Individual Arrested, Last Name, First Name, Middle Initial, also Alias LEE ROY E.						2. CID Investigation Number 527800001 "P"	
3. Residence (Address of individual arrested) 123 Street City State 00000							
4. Social Security Number 000-00-0000		5. If Naturalized Give Date and Place of Naturalization					
6. Date of Birth 9-15-47	7. Place of Birth Albany, New York		8. Height 6'2	9. Weight 210	10. Color of Hair Blonde	11. Color of Eyes Blue	
12. Sex Male	13. Race Caucasian	14. Internal Revenue District Baltimore		15. Time & Date Arrest 1-13-X 2:30 p.m.		16. Place of Arrest 1201 A St., NW, Wash. D.C.	
17. Name and Official Title Arresting Officer(s) William Gerard, Special Agent Robert Hollis, Special Agent							
18. Alleged Violation Forcible Rescue of Seized Property							
19. Criminal Section(s) Violated (a) IRC 7212b				19. (b) Other			
20. (a) Was Warrant Issued <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				20. (b) If Yes Give Type Arrest Warrant			
21. Date of Warrant 1-13-x		22. Name and Title of Official Issuing Warrant N.M. Smith U.S. Magistrate					
23. Name and Title of Official Filing Affidavit or Complaint William Gerard						24. Date of Affidavit or Complaint 1-13-x	
25. United States Attorney or Assistant Sam Michaels				26. Judicial Division and District District of Columbia			
27. Name of U.S. Magistrate Holding Preliminary Hearing N.M. Smith				28. Place of Hearing Washington, D.C.	29. Date and Time of Hearing 1/13/x 4:30 p.m.		
30. <input checked="" type="checkbox"/> Released <input type="checkbox"/> Remanded to U.S. Marshal at				31. Released on Bail in the amount of \$ 1,000		32. Defendant Represented By Steven Davis	
33. General Description of Items Seized (Give year and model of vehicles, etc.)							

## 34. Statement of Facts and Circumstances (Origin, evidence, details of arrest, remarks, admissions, related cases, F.B.I. identification number, etc.)

An oral referral was made by the Chief, Collection Division and Revenue Officer Ira Martin at 9:00 a.m. on 1/13/x that the premises at 1201 A Street, NW, Washington, DC, were seized on 1-12-x by the Collection Division. While driving past the premises in route to work, Martin observed that the business was open.

Special Agents Gerard and Hollis went to the Preppie Bar at 1201 A Street to interview Mr. Lee. After being informed of his constitutional rights, Lee admitted that he had removed the IRS seizure tags and sawed the chain off the door, which Revenue Officer Martin had put on when the premises were seized. Corroborative testimony was obtained from employee affidavits. Based on these facts, a warrant for Lee's arrest was obtained.

Special Agent Hollis and I arrested Lee at the Preppie Bar and informed him of his constitutional rights. Lee refused to make any further statements. Lee was fingerprinted and photographed at the U.S. Marshal's office. He called his attorney, Mr. Davis, who appeared at this preliminary hearing.

35. Date 1-13-x	36. Typed Name of Special Agent William Gerard	37. Signature of Special Agent <i>William Gerard</i>
38. Date 1-14-X	39. Approved Richard Francis	<i>Richard Francis</i>

Form 1327-A (Rev 11-92)

U.S. No. 1735-A

Department of the Treasury Internal Revenue Service

# Exhibit 9320-3

## Form 4338

<b>Information or Certified Transcript Request</b> <i>(Do not use this form for IMF. See reverse for instructions.)</i>		Transcript DLN	
Taxpayer's EIN 170-0000000		SSN 123-45-6789 0 <i>(For Form 4638, enter "0" after SSN)</i>	
Taxpayer's Full Name and Address <i>(Underline Name Control)</i> N.E. Twitcheil Inc. 1334 Ang Street Northern, VA 22003		Description <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Supplement <input type="checkbox"/> Under Seal <input type="checkbox"/> Certified <i>(to be used only to satisfy legal requirements)</i>	
		Number of copies	Date required
		Reason for request	

ADP *(Master File - Computer Transcript)*

"X"	Type of Transcript Requested	Code	MFT	Period Ending
	Specific Module <i>(A specific return for a specific period)</i>	990		
	Open Module <i>(All return periods which have debit or credit balance)</i>	991		<i>(See reverse for list of MFT codes.)</i>
<input checked="" type="checkbox"/>	Complete <i>(All return periods for a taxpayer regardless of balance)</i>	992		Place "X" in appropriate box
	Class of Tax <i>(All return periods for a taxpayer within the Specified MFT)</i>	992		<input type="checkbox"/> BMF <input type="checkbox"/> EPMF <input type="checkbox"/> PMF <input type="checkbox"/> IRA
	Entity <i>(All names lines and transactions posted to the entity section)</i>	993		Form number:

Non-ADP *(Manually Processed)*

"X"	Information Requested	Form Number	Taxable Period(s)	DLN and Account Numbers
	Transcript			
	Photo Copy of Unit Ledger Card			
	All Outstanding Balances			

District or Service Center where Return(s) are Filed

Return or Document in Possession of Requester  
 Yes     No  
*(See Item 8 on Reverse)*

Give any business names, aliases, names used previously, other addresses, or other information that may assist in locating the account if a taxpayer's EIN/SSN or complete name are not known.

Requester		
Name, address and requester number		Title
Robert L. Harley P.O. Box 1382 Northern, VA 22003		Special Agent
Date	Phone number	
11/19/84	372-2412	

Form 4338 (Rev. 11-85) *Dispose of all prior issues.*

Department of the Treasury - Internal Revenue Service

**Exhibit 9320-3 Cont. (1)****Instructions for Form 4338****General Information**

1. Prepare separate request forms for ADP and Non-ADP accounts. For ADP Account Transcripts, use separate request forms for BMF, IRAF, EPMF and PMF. PMF valid only for specific module, complete and entity. Code 992 includes back-up withholding.
2. Computer transcripts are printed by the High Speed Non-impact Printer. Form 4340 is used to provide requested information on Non-ADP accounts.
3. Do not use Transcript DLN block at top of request form.
4. Enter the EIN or SSN, as appropriate.
  - (1) Forms 706 and 709 are always filed by SSN.
  - (2) Form 4638 may be filed by either SSN or EIN. When filed by SSN, enter a "zero" in the box provided immediately after entry of the SSN.
  - (3) All other forms are filed by EIN.
  - (4) PMF - sole proprietorship is filed by SSN if payer is not required to have an EIN.
5. Complete the blocks for Number of Copies, Date required, and reason for Request only if a certified transcript is required.
6. Use separate Forms 4338 to request Specific transcripts for multiple tax period. Also see instructions on Form 813 in IRM 35(65)0-2. Request Class of Tax or Complete transcripts if more than three tax periods are required.
7. Enter MFT for Specific on Class of Tax transcript only.
 

CT-1	09	943	11	4720	50
11	61	990	67	5227	37
11-B	62	990C	33	5329	29
11-C	63	990PF	44	EPMF	74
706	52	990T	34		
709	51	1041	05		
720	03	1041A	36		
730	64	1065	06		
940	10	1120	02		
941	01	2290	60		
942	04	4638	58		

For PMF, enter 00 as MFT with specific module only.
8. For Non-ADP requests, if the following Returns or Documents are in the Possession of the Requester, attach photocopies as indicated to the request form:
  - (1) Return - Photocopy of front page
  - (2) Amended Return - Photocopy of front page
  - (3) Estimated Tax Documents - Photocopy of document
  - (4) Tentative return attached to corporation return - Photocopy of front page
  - (5) Form 899 or 4340 - Photocopy of transcript
9. For Non-ADP requests, forward Form 4338 to the Service Center for the District Office where the return was filed.

**Certified Transcripts**

1. Request certified transcripts only when formal certification is necessary to satisfy legal requirements.
2. For ADP Accounts, if time does not permit obtaining a computer transcript (Form 4303 or Form FC-4), Form 4340 will be prepared and certified from IDRS data if available. Otherwise use microfilm data.
3. The Special Procedures Section or Appellate Division will always specify what documents are needed, how many copies are required, and what is to be certified.
4. Requests for certified transcripts, especially for Non-ADP returns, require additional research and processing time and should be made at the earliest practical date to insure receiving completed transcripts when needed.

**Certified Supplemental Transcripts**

1. Request a supplemental transcript, if needed, to cover the period of time after an original request and certification has been acted on.
2. Attach a copy of the prior transcript to the supplemental request.

**Exhibit 9320-3 Cont. (2)****Preparation of Request****Preparation of Requests**

In addition to the instructions appearing on the reverse side of Form 4338, all requests for transcripts should contain the following information:

(1) Employer Identification or Social Security Number of taxpayer. (EI Number for BMF requests, SSN for IMF requests.)

(2) Name of taxpayer. This should be exact as possible. For ADP requests it should be shown on the directory or any notices, TDA's or other computer output. In the event the above sources are not available, information to complete the request may be obtained from the return or other available sources.

(3) Transcript requested (designate by an "X"). Note: If the request is for Certified, Supplemental or Under Seal, list the number of copies required, the date the transcript must be received by the requester and the reason for the request.

(4) ADP Requests—The type of transcript requested (Specific, Open, Complete, Entity or Tax Class). Indicate by an "X" the type of transcript requested. Complete the MFT block for "SPECIFIC MODULE" and "CLASS OF TAX." MFT is the Master File tax account, a two-digit number which identifies the type of tax as follows:

<i>MFT</i>	<i>Tax Class</i>	<i>Master File Account</i>	<i>Form Number and Type of Tax</i>
67	4	BMF	990 EO Penalties
33	3	BMF	990-C Coop Income
44	4	BMF	990-PF Excise
34	3	BMF	990-T EO UBI
50	4	BMF	4720 EO Excise
37	4	BMF	5227 NECT Excise
05	2	BMF	1041 Trust Income
36	4	BMF	1041-A Certain Trust Penalties

(5) For "SPECIFIC MODULE" Transcript the return form number and the period ending date must be shown. A separate transcript request should be submitted for each module record needed.

(6) In order to facilitate service center contract with the Criminal Investigation Division "requester" the telephone number, including area code of the requester (normally the special agent assigned the case), will be included in the location or address block (bottom line) of Form 4338.



# Exhibit 9320-3 Cont. (3)

## Form 4338-A

<b>IMF Information or Certified Transcript Request</b> <i>(Prepare in duplicate. See instructions below.)</i>	Transcript DLN
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<b>Requester</b>		
Name and Address <i>William Gerard P.O. Box 10049 Yorktown, MD</i>	Title <i>Special Agent</i>	Date <i>10-31-79</i>
	Phone Number <i>924-2495</i>	

<b>Identification of Transcript</b>	
Taxpayer's SSN <i>157-00-9255</i>	Description <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Supplemental <input type="checkbox"/> Under Seal <input type="checkbox"/> Certified <i>(to be used only to satisfy legal requirements)</i>
Taxpayer's Full Name and Address <i>(Underline Name Control)</i> <i>John F. Doe 2230 Pine Street Warren, MD 12912</i>	Number of copies Date required
	Reason for request

Master File - Computer Transcript			
"X"	Type of Transcript Requested	Code	Period Ending
X	Specific Module <i>(A specific return for a specific period)</i>	990	<i>7612-1040</i>
	Open Module <i>(All return periods which have debit or credit balance)</i>	991	
	Complete <i>(All return periods for a taxpayer regardless of balance)</i>	992	
	Entity <i>(All name lines and transactions posted to the entity section)</i>	993	

Give any business names, aliases, names used previously, other addresses, or other information that may assist in locating the account if a taxpayer's SSN or complete name are not known.

*XYZ Co.  
2230 Pine Street  
Warren, MD 12912*

Instructions	
<b>General</b>	<ol style="list-style-type: none"> <li>Form 4303, Computer Transcript, is generated for accounts from IMF.</li> <li>Do not use Transcript DLN block at top of request form.</li> <li>Use the following format to list taxpayer's SSN: NNN-NN-NNNN.</li> <li>Complete the blocks for Number of Copies, Date Required, and Reason for Request <i>only</i> if a certified transcript is required.</li> <li>Use separate Forms 4338-A to request specific transcripts for multiple tax periods. Request complete transcripts if more than three tax periods are required.</li> </ol>
<b>Certified Transcripts</b>	<ol style="list-style-type: none"> <li>If time does not permit obtaining a computer transcript <i>(Form 4303)</i>, Form 4340, Certificate of Assessments and Payments, will be prepared and certified from IDRS data, if available. Otherwise, use microfilm data.</li> <li>The Special Procedures Section or Appellate Division will always specify what documents are needed, how many copies are required, and what is to be certified.</li> <li>Requests for certified transcripts, especially for non-ADP returns, require additional research and processing time and should be made at the earliest practical date to ensure receiving completed transcripts when needed.</li> </ol>
<b>Certified Supplemental Transcripts</b>	<ol style="list-style-type: none"> <li>Request a supplemental transcript, if needed, to cover the period of time after an original request and certification has been acted on.</li> <li>Attach a copy of the prior transcript to the supplemental request.</li> </ol>

Exhibit 9320-4

Form 4303

Department of the Treasury - Internal Revenue Service

TRANSCRIPT OF ACCOUNT

DATE 10-10-69 ①

TRANSCRIPT TYPE SPEC ⑫  
SORT DLN 17499-261-13673-9 ⑬

②  
STEELE POWER CORP  
BOX 599  
MADERIA OHIO 43302

EIN-SSN 31-0790175 ①  
PERIOD ENDING 65-06 ④  
TYPE OF TAX EXCISE ⑤  
FORM FILED 720 ⑥  
NAME CONTROL STEE ⑦

⑨ SPOUSE RRB NO ⑥  
FREEZE STATUS CODE ⑩  
PRIOR NAME CONTROL ⑪

CONTROL DLN 31420-204-01110-5 ⑭  
LOCATION CODES  
CURRENT 4-31-01 ⑮  
TDA (IF DIFFERENT) ⑯

ADJ CONTROL NO. ⑰

EXPLANATION ⑧	TRANSACTION DATE ⑨	23C DATE ⑲ ENTRIES OR MEMO	AMOUNT ⑲	CYCLE ⑲	TRANSACTION DOCUMENT LOCATOR NUMBER ⑲	COND. CODE ⑲	REMARKS
RET FILED -150	07-31-65	09-27-65	7,182.20	533	31420-204-01110-5		WCERF
PAYT W RET-610	07-31-65		2,642.33	533			P/R-11101 ⑳
DR CREDIT-650	07-31-65		4,539.87				E/D-6401 ㉑
ABS-35			7,182.20 ㉒				P/M-12 ㉓
RT RT EVER-10 ㉔	08-27-65 ㉕		.00 ㉖				
MODULE BAL			.00 ㉗				
ACCRD INT	10-10-69 ㉘		.00 ㉙				

**Exhibit 9320-4 Cont. (1)****Description of Form 4303****Description of Form 4303—Computer Transcripts**

(1) One modular record is printed per transcript page. If a module requires more than one page, additional pages are printed with identifying information from the heading repeated.

(2) Transactions are printed in their order of posting to the Master File.

(3) When a transaction reflects a secondary amount (such as Withholding Tax on an Income Tax Return) the secondary amount is shown as a separate transaction. The DLN for the secondary amount is *not* shown. Therefore, a transaction lacking a DLN can be recognized as being part of the preceding primary transaction.

**Explanation of Contents of Transcript of Account, Form 4303**

① Date: Corresponding to NCC cycle in which the transcript is produced.

② Name and Address: Taxpayer's name and current address—on IMF modules the name shown is the name as given on the tax module, *NOT* the entity module. For example, if Alice Wills files her return for 1966 and changes her name to Alice Hays in 1969 the entity name is Alice Hays; but, the name shown on the 1966 transcript is Alice Wills.

- ③ EIN/SSN: (1) An asterisk following an SSN indicates an invalid number.  
 (2) Invalid SSN release—IMF only—R printed if condition is present.  
 (3) Scrambled SSN—IMF only—S printed if condition is present.

④ Period Ending: Year and month in which the period covered by each module ended.

⑤ Type of Tax: Income, WT-FICA, Excise, RR-Ret., FUTA or blank.

⑥ Form Filed: 1040A, 1040, 941, 1120, 720, CT-1 or 940. "NONE" if no return filed on IMF.

⑦ Name Control: Of the *Entity* module.

⑧ Spouse or RRB No.: On IMF modules, spouse's SSN if present. On BMF modules, Railroad Board Number of present.

⑨ and ⑩ Freeze Codes: Alphabetic codes indicating up to three freeze or status conditions present in a module. For example: (TC 914), Intelligence control.

⑪ Prior Name Control: Present only if different from current name control.

⑫ Transcript Type: Transcript title. For example, "SPECIFIC," "COMPLETE," ETC.

⑬ Sort DLN: On requested transcripts, is the DLN of transcript request; on generated transcripts, is the DLN specified by extraction criteria.

⑭ Control DLN: Tax module control DLN.

⑮ Location Codes (current): Shown as R (Region), DD (District) and AA (Area office).

⑯ Location Codes (TDA): Present if different from current location codes. Printed in the same format as current location code.

⑰ Adjustment Control Number.

⑱ Transaction Explanation: Abbreviations for each transaction followed by the actual transaction code. For example, PAYT W RET - 610. Refer to ADP Handbook 370-725 for complete explanation of each transaction.

⑲ Transaction Date—Received date of returns, credits and credit reversals; transfer date for account transfer in or out; transaction date for transactions without money fields; special interest computation date for TC 294, 298, 304 and 308 and 23C date for machine-generated transactions.

⑳ 23C Date: Assessment date for transactions, usually a Friday.

㉑ Transaction Amount—Amount of each transaction: Credits are indicated by a minus (—) sign.

㉒ Cycle Posted: Cycle of the posted transaction printed in the format YY-WW.

㉓ Transaction DLN: DLN of the transaction. Not printed for "Secondary Amount" Transactions. Replaced by TUS (Treasurer U.S.) number if present on FTD payments. TUS numbers are printed in the format XXX97-XXXXXXXX-XX.

㉔ Condition Codes—BMF only: printed next to return if present—1, 2, 3 and A-Z.

㉕ Status Explanation: Abbreviations for module status followed by status code. For example, 1st Notice-21.

㉖ Status Date: Pertaining to module status explanation (25) above.

㉗ Module Balance: Tax module balance after posting, including tax, penalty and unpaid assessed interest.

㉘ Accrued Interest: Amount of unassessed interest for the module.

㉙ Accrued Interest Date: Date to which accrued interest is computed.

㉚ Filing Requirements—BMF only: The presence of a filing requirement will be indicated by "1." No filing requirement will be shown as "0." The format of these print lines will be as follows:

Example F/R WCERF  
1 1 1 0 1

W—941 Filing Requirement  
 C—1120 Filing Requirement  
 E—720 Filing Requirement  
 R—CT-1 Filing Requirement  
 F—940 Filing Requirement

In the example above a filing requirement exists for "W" (Form 941), "C" (Form 1120), "E" (Form 720) and "F" (Form 940).

# Exhibit 9320-4 Cont. (2)

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## Description of Form 4303

① Establishment Period—BMF only: Year and month entity established on Master File.

② Fiscal Month—BMF only: Month in which taxpayer's year ends.

③ Abstract Amount—BMF only: Printed only for Form 720 tax modules following posted transactions. ABSTRACT-NN is printed explanation in column followed by abstract amount.

Form 4340

**Certificate of Assessments and Payments**

Name of Taxpayer	Address (Number, street, city, and state)	EIN or SSN
------------------	---	------------

Date (a)	Explanation of Transactions (b)	Assessment (Abatement) (c)	Credit (Credit Reversal) (d)	Balance (e)	DLN or Account Number (f)	23C Date (g)	Period Ending (h)
9/15/78	Estimated Tax		200,000.00		582345678		6512
12/15/78	Estimated Tax		200,000.00				
3/15/79	Tentative Payment		250,000.00				
6/15/79	Part Paid Return	1,000,000.00	200,000.00	100,000.00		6/30/79	6512
6/30/79	First Notice						6512
7/15/79	Payment		50,000.00	50,000.00			
8/3/79	Lien Filed						
8/15/79	Payment		45,000.00	5,000.00			
9/15/79	Estimated Tax		300,000.00				6612
12/15/79	Estimated Tax		300,000.00				
3/15/80	Full Paid Return	962,453.22	362,453.22	- 0 -		3/30/80	6612

I certify that the foregoing transcript of the taxpayer named above in respect to the taxes specified is a true and complete transcript for the period stated, and all assessments, penalties, interests, abatements, credits, refunds, and advance or unidentified payment relating thereto as disclosed by the records of this office as of the date of this certification are shown therein.

Signature of Director (required for certification)	Location	Date
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437

MT 9-370

3601312

IR Manual

# Exhibit 9320-6

## Pattern Letter P-258

(Use Appropriate Letterhead)

Social Security Number:  
(Employer Identification Number:)

Person to Contact:

Contact Telephone Number:

(Name and Address of Taxpayer)

(Salutation)

We have determined that there (is a deficiency) (are deficiencies) of \$\_\_\_\_\_ in your Federal (kind of tax) tax liability for the taxable year(s) \_\_\_\_\_. This letter is a NOTICE OF DEFICIENCY sent to you as required by law. The enclosed statement shows how we computed the deficiency (deficiencies).

Neither this notice nor any related action taken by the Internal Revenue Service affects other sanctions the law provides.

If you wish to contest (this deficiency) (these deficiencies) in court before making any payment, you have 90 days from the above mailing date of this letter (150 days if addressed to you outside the United States) to file a petition with the United States Tax Court, 400 Second Street, Washington, D.C. 20217. The copy of this letter should be attached to the petition. The time in which you may file a petition with the Court (90 or 150 days as the case may be) is fixed by law. *The Court cannot consider your case if your petition is filed late.* If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, *both* must sign the petition, or each must file a separate, signed petition. You can obtain a copy of the rules for filing a petition and a form to use by writing to the Clerk of the United States Tax Court at 400 Second Street, Washington, D.C. 20217. You should do this promptly if you intend to file.

If you decide not to file a petition in the United States Tax Court, the law requires us to assess and bill you for the deficiency (deficiencies) after 90 days from the above mailing date of this letter (150 days if this letter is addressed to you outside the United States).

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Commissioner

By

Enclosures:  
Copy of this letter  
Statement

438

# Exhibit 9320-7

Form 4135

## Criminal Investigation Control Notice

To: Director <u>Mid-Atlantic</u> Service Center Attn: Chief, Criminal Investigation Branch (1)		On Master Files marked with "X" (4)	<input checked="" type="checkbox"/> IMF	For <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Spouse
From: Chief, Criminal Investigation Division P. O. Box <u>1402</u> (2)  Richmond, Virginia 00000 <i>(City, State, ZIP Code)</i>			<input checked="" type="checkbox"/> BMF	(5)
			<input type="checkbox"/> RMF	
			<input type="checkbox"/> IRAF	

Initiate control indicated by item marked "X" (one only) (3)	<input type="checkbox"/> TC910	CID Account Hold Reverse TC910	Retain all periods on Master File.	Initiate control indicated by item marked "X" (one only) (3)	<input type="checkbox"/> TC915	Refund Release	Partial Reverse of TC916, 918
	<input type="checkbox"/> TC911				<input type="checkbox"/> TC916	ORP Module Freeze	ORP Criminal Investigation
	<input checked="" type="checkbox"/> TC914	CID Module Freeze	Active Criminal Investigation		<input type="checkbox"/> TC917	Reverse TC916	
	<input type="checkbox"/> TC914	TC914 Update	Enter Changes only to Freeze		<input type="checkbox"/> TC918	ORP Entry Freeze	ORP Criminal Investigation
	<input type="checkbox"/> TC912	Reverse TC914			<input type="checkbox"/> TC919	Reverse TC918	

Taxpayer Identification	
Complete if control on one of following (check one): <input checked="" type="checkbox"/> IMF <input type="checkbox"/> IRAF <input type="checkbox"/> IRMF (SSN)	Individual SSN (6) <u>4 5 6 3 8 8 7 1 9</u> Spouse SSN <u>5 7 9 1 6 9 0 8 2</u>
	Taxpayer's name (Last, First, Middle) <u>Burkey, Don L.</u> Address (Number, Street, City, State, ZIP Code) <u>14504 N. Lane Dale City, Virginia 00000</u>
Complete if control on one of following (check one): <input checked="" type="checkbox"/> BMF <input type="checkbox"/> RMF (EIN)	Employer's Identification No. (7) <u>1 8 9 0 1 2 6 4 3</u> Business name <u>Burkey Farms</u> Business address (Number, Street, City, State, ZIP Code) <u>N.W. Main Street, Dale City, Virginia 00000</u>
	Complete for failure-to-file case, if known <input type="checkbox"/> Known non-filer (8)
<input type="checkbox"/> See below for Special instructions (10)	

Special Instructions—Criminal Investigation Division/Branch

Remarks:

(10)

Chief, Criminal Investigation Division/Branch (Signature)

(11)

Date

(12)

# Exhibit 9320-7 Cont. (1)

## Form 4135 (Reverse)

For Service Center Use Only							
To Establish Control TC910, 914, 916, 918		Cycle Posted	Initials	To Closeout Control (check one)		Cycle Posted	Initials
				<input type="checkbox"/> TC910	<input type="checkbox"/> TC914		
				<input type="checkbox"/> TC916	<input type="checkbox"/> TC918		
Account Not on MF (14)		(15)	(16)	1. To Input Form 3177 (check one)		(18)	(16)
				<input type="checkbox"/> TC917	<input type="checkbox"/> TC919	(19)	
1. Input Form 2363 To Establish Account				2. Special Closeout Procedures			
	BMF			a. Form 3177 - TC590			
	IMF	Individual		b. Form 3177 - TC591			
		Spouse					
	<input type="checkbox"/> RMF	<input type="checkbox"/> IRAF		3. Transfer to MF Transactions under Manual Control			
	(check one)			(20)			
2. Input Form 3177 To Establish Control							
	BMF						
	IMF	Individual					
		Spouse					
	<input type="checkbox"/> RMF	<input type="checkbox"/> IRAF					
	(check one)						
Account on MF (17)							
1. Input Form 3177 To Establish Control							
	BMF						
	IMF	Individual					
		Spouse					
	<input type="checkbox"/> RMF	<input type="checkbox"/> IRAF					
	(check one)						
1. The following returns, not under TC914, 916, or 918 control, have been or are being obtained. (13)							
Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period
2. The subject taxpayer is not required to file the returns listed below. (13)							
Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period	Form Number	Tax Period
<input type="checkbox"/> 3. If there are any filing requirements not met by subject taxpayer, explain.							
(21)							
<input type="checkbox"/> 4. If assessment of a delinquency penalty has been suppressed, complete the following: (13)							
Case referred to Examination	Assess Delinquency Penalty			Form Number	Tax Period	Form Number	Tax Period
	Do not assess Delinquency Penalty						
Transfer-in of Transactions under Manual Control (cont'd)							
(20)		Cycle Posted	Initials			Cycle Posted	Initials
		(15)	(16)		(20)	(15)	(16)



**Exhibit 9320-7 Cont. (2)****Instructions for Form 4135****Form 4135—Criminal Investigation Control Notice**

1. Listed below are the instructions for completing Form 4135. For each numbered instruction below, a corresponding circled number appears either on Exhibit 9320-7 or 9320-7 Cont. (1) to indicate which item on the Form 4135 the instruction relates to.

(a) Completed by District Criminal Investigation:

1 Service Center responsible for servicing District Criminal Investigation Office

2 Address of District Criminal Investigation Office initiating control

3 Level of control requested

4 Master File(s) on which account(s) is located

a. Control over IMF and BMF accounts for the same taxpayer can be requested on one form

5 Account control on the IMF:

a. Control over single person's account (or modules within the account) is indicated by marking the Individual block

b. If failure to file case and it is not known whether separate or joint returns may be filed, check both the Individual and the Spouse blocks. This will also control joint returns filed

6 SSN, name and address of accounts to be controlled on the IMF, IRAF, or RMF (SSN) (check the correct block(s)). If there is more than one file checked and there are different TINs, indicate the TIN and its respective Master File in the Special Remarks section on back of form

7 EIN, business name and address of BMF or RMF (EIN) accounts to be controlled.

Follow instructions in 6, above, for different TINs

8 Indicates taxpayer has not previously filed a return

9 Current level of control, if any

10 Indicates special control conditions  
a. Tax years to be controlled (must be entered if TC 914 control is requested)

b. Different TINs with respective Master Files in cases mention in 6, above

11 Signature of Chief, or authorized delegate, Criminal Investigation Division, requesting control

12 Date

13 Special closeout procedures (blocks 2, 3 or 5 on reverse of form)

(b) To be completed by Service Center Criminal Investigation Staff

14 Completed on requests for control if account was not previously established on Master File

15 Cycle transaction posted

16 Initials of Criminal Investigation Staff clerk

17 Completed on requests for control if account is already established on the Master File

18 Level of control to be closed (check one)

19 Reversal code to close control (check one)

20 Unassessed returns, deposit fund payments, etc., transferred in from manual control

21 Completed on request or if information in 13, above, is not sufficient to satisfy established filing requirements.

# Exhibit 9320-8

## Form 4331

Document Transmittal Criminal Investigation Control		The Attached Document(s) Pertain to		SSN/EIN 147-23-3227 (1)	
				Name Florence Freedman (2)	
T O	Chief, Criminal Investigation Division P.O. Box 1402 (3) Baltimore, Maryland 21203 <small>(City, State, ZIP Code)</small>			Director Mid-Atlantic (18) Service Center Attn: Criminal Investigation Control	
	F R O M	Director Mid-Atlantic (4) Service Center (Criminal Investigation Control)			Chief, Criminal Investigation Division P.O. Box P.O. Box 1402 (19) Baltimore, Maryland 21203 <small>(City, State, ZIP Code)</small>
Date Sent to District Criminal Investigation Division January 2, 1970 (5)				Date Received January 5, 1970 (20)	Date Returned to Service Center January 8, 1970 (21)

For Completion by Svc. Cen. CI Control Clerk						For Completion by District CI Office		
<input type="checkbox"/> Original Document(s) as Requested (6)	Document	Amd	Remittance Amount	Tax Period	Remarks	Place "X" in appropriate column to indicate action to be taken		
	(7)	(8)	(9)	(10)	(17)			
<input type="checkbox"/> Photocopies of the Following Documents for Determination of Further Action (11)						Post	Do Not Post	Send Original Document to Above CI District Office
<input type="checkbox"/> Returns (12)	Type	Amd	Remittance Amount	Tax Period	Remarks			
	(13)	(8)	(9)	(10)	(17)	(22)	(23)	(24)
	1040		\$97.20	1969		x		
<input type="checkbox"/> ES/FTD Payments (14)	Type		Remittance Amount	Tax Period	Remarks			
	(13)		(9)	(10)	(17)	(22)	(23)	
<input type="checkbox"/> Other Remittances (15)	Type Form Number		Remittance Amount	Tax Period	Remarks			
	(13)		(9)	(10)	(17)	(22)	(23)	
Other (Explain) (16)						Other (Explain) (25)		

Chief, Criminal Investigation Division (Signature)	Date Signed
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**Exhibit 9320-8 Cont.**

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**Instructions for Form 4331****(2) Instructions for Completing Form 4331—Document Transmittal CID Investigation Control****(a) Completed by service center CIB Control.**

1. SSN/EIN of controlled account.
2. Name of controlled account.
3. Address of district CID office initiating control request.
4. Service center sending transmittal.
5. Date sent to district CI office.
6. Checked if original documents are requested per previous instruction from district CID.
7. Type of document being transmitted—1040, 1120, etc.
8. Checked if amended document.
9. Completed if document was submitted with a remittance.
10. Tax period to which document relates.
11. Checked if photocopies are being submitted to district CID for a decision on whether to post the transaction to the Master File.
12. Checked if returns are being transmitted for posting decision. Up to 3 returns may be transmitted on the same form.
13. Type of return/payment being transmitted.
14. Checked if ES or FTD payments are being transmitted for posting decision. Up to the 2 payments may be transmitted on the same form.
15. Checked if other remittances are being transmitted for posting decision. Up to 3 payments may be transmitted on the same form.
16. Completed if "NOMRG-914." "Statute Expiration Imminent" returns, documents from other sections of the service center are being transmitted.
17. Enter DLN of documents being transmitted.

**(b) Completed by district CID**

18. Service center transmitting documents.
19. Address of district CI office returning transmittal.
20. Date transmittal received by district CID (may use stamp).
21. Date transmittal returned to service center CIB Control.
22. Completed if transaction is to be posted to the Master File.
23. Completed if transaction is not to be posted to the Master File (manual control requested).
24. Completed if original document is required.
25. Action to be taken (if required).

# Exhibit 9320-10

## Form 6544—Request for Cooperating Examiner

### Request for Cooperating Examiner

(See Instructions on back)

<b>To:</b> Chief, Examination Division	Date	CID Case No.
<b>From:</b> Chief, Criminal Investigation Division	Date	XX811234H
<b>To:</b> Chief, Criminal Investigation Division	Date	CID Case Level (tentative)
<b>From:</b> Chief, Examination Division	Date	3

<b>1a. Name, Address and SSN/EIN of Taxpayer</b>  TAXPAYER NAME STREET ADDRESS CITY OR TOWN, STATE, ZIP CODE SSN 1X2-34-56XB	<b>1b. Related Entities</b>  CORPORATION NAME STREET ADDRESS CITY OR TOWN, STATE, ZIP CODE EIN XX - 1234567
---	--

**2. Request Concerns**

<input checked="" type="checkbox"/> Omitted income	<input type="checkbox"/> Failure to file	<input type="checkbox"/> Other (Specify) _____
<input checked="" type="checkbox"/> False expenses/deductions.	<input type="checkbox"/> Altered documents	

**3. Records to be Analyzed**

<input checked="" type="checkbox"/> Bank records	<input type="checkbox"/> Purchases journal	<input type="checkbox"/> General ledger	<input type="checkbox"/> Purchase invoices
<input type="checkbox"/> Cash receipts journal	<input type="checkbox"/> Sales journal	<input type="checkbox"/> Subsidiary ledgers	<input checked="" type="checkbox"/> Unknown - May claim
<input type="checkbox"/> Cash disbursements journal	<input type="checkbox"/> General journal	<input type="checkbox"/> Sales invoices	5th Amendment Rights

**4. Basis of accounting:**     Cash     Accrual     Other (Specify) \_\_\_\_\_

**5. Periods which are the subject of criminal investigation**

Periods (a)	Form(s) (b)	Taxable Income per Return(s) (c)	Tentative Adjustment(s) (d)
12/31/78	1040	\$ 13,489-	\$ 20,000-
12/31/79	1040	\$ 12,131-	\$ 20,000-
12/31/80	1040	\$ 17,652-	\$ 20,000-

<b>6a. Source of case</b> <input type="checkbox"/> Collection <input checked="" type="checkbox"/> Criminal Investigation <input type="checkbox"/> Other (Specify) _____	<b>6b. CID Program</b> <input checked="" type="checkbox"/> GEP <input type="checkbox"/> SEP _____	<b>6c. Has taxpayer been contacted?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>7. Taxpayer's Business/Occupation</b> Trucking & Vehicle Leasing (1120) Florist (Sched. C)
--	---	--	---

**8. Allegation(s)**  
 Diverted business income; personal expenses charged to corporation (son's private school tuition, clothing, gifts, personal vacations, gambling losses, etc.); non-existent employees on payroll; inflated business expenses for tolls, gasoline and inflated purchases on Schedule C. (SEE ATTACHED FOR DETAILS)

**9. Anticipated technical issues**  
 Unsubstantiated business expenses; possible additional depreciation and investment credit for machinery and vehicles not on books

<b>10a. Date cooperating examiner desired</b> immediately	<b>10b. Estimated case completion date</b> unknown
--	---

**11. Anticipated duties of cooperating examiner**  
 Participate in interviews of T/P, bookkeeper, return preparer, and key third parties; analyze business books and records; reconcile books and records to return; recompute tax and prepare RAR. (Will be expanded or revised as necessary)

<b>12. Name of special agent assigned</b>	Grade	Group	Telephone No.
Name	GS-12	XXX	FTS-8-XXX-1234
<b>13. Name of cooperating examiner assigned</b>	Grade	Group	Telephone No.
	GS-		

**14. Attach copies of first 2 pages of tax returns and all income schedules.**

**Exhibit 9320-10 Cont.****Preparation of Form 6544****Preparation of Form 6544 (Request for Cooperating Examiner)****General Instructions**

This form will be prepared at the time it is determined participation by a cooperating examiner is needed, to the extent information is available. If any information is not known state "unknown."

Additional information not required on the form may be included.

Attach additional sheet(s) if necessary.

**CID Case Number**

List the case number as on Form 4930, Criminal Investigation Case/Project Report.

**CID Case Level (tentative)**

List the case level as on Form 4930, Criminal Investigation Case/Project Record.

**1a. Name, Address and SSN/EIN of Taxpayer**

List the name and current address of the taxpayer. If other addresses are shown on filed tax returns, detail those on attached sheet(s) as necessary.

List SSN/EIN on filed returns for the years under criminal investigation. In failure to file cases, list SSN/EIN if known.

**1b. Related Entities**

List the names, addresses, and EINs of related business entities.

**2. Request Concerns**

Indicate the primary allegation under criminal investigation. Secondary or collateral criminal violations under investigation may be detailed on attached sheet(s).

**3. Records to be Analyzed**

If known, check off those records which it is anticipated will be available for analysis during the criminal investigation. If it is premature to detail those records to be analyzed by the cooperating examiner, check "Unknown"

**4. Basis of Accounting**

Check the appropriate basis of accounting. Under "Other," specify any other method of accounting used by or (in failure to file cases) available to the taxpayer.

**5a. Periods**

List all periods which are the subject of criminal investigation.

**5b. Form(s)**

List the form numbers of returns filed (or required to be filed in a failure to file case), which are the subject of criminal investigation.

**5c. Taxable Income Per Return**

List taxable income per filed returns which are the subject of criminal investigation.

**5d. Tentative Adjustment**

List a reasonable estimate of the likely final civil adjustments, if known. If no figure is listed in this column, explain under the "Allegation(s)" section.

**6a. Source of Case**

Indicate the original source of the criminal investigation. Under "Other" specify the actual source. This information should agree with Form 4930, Criminal Investigation Case/Project Report.

**6b. CID Program**

Check the appropriate Criminal Investigation program. This category should agree with that listed on Form 4930, Criminal Investigation Case/Project Report. For SEP cases, list SEP-1, SEP-2, etc. as appropriate.

**6c. Has taxpayer been contacted?**

Check the appropriate block. This relates to taxpayer contact by Criminal Investigation subsequent to numbering the investigation.

**7. Taxpayer's Business/Occupation**

List the primary source of income during the criminal investigation year. Detail other significant sources of income.

**8. Allegation(s)**

Summarize the background and basis for the criminal investigation in sufficient detail to facilitate proper assignment of Examination Division personnel. Attach additional sheet(s) if necessary.

**9. Anticipated technical issues**

List any known non-criminal items which will either result in an adjustment or may become part of the civil examination. Attempt to identify questionable issues, not only those which are known to be the subject of fruitful civil probing.

**10a. Date cooperating examiner desired**

Indicate the earliest date that a cooperating examiner should be assigned to the investigation. In most cases, this will be the date of the preparation of the form requesting a cooperating examiner. If a time lag is anticipated and can be accurately projected, the actual date a cooperating examiner is needed should be listed in order to permit Examination to more effectively plan the use of its resources.

**10b. Estimated case completion date**

If a tentative estimated completion date has been established, list that date. If this date has not been forecast, write "unknown".

**11. Anticipated duties of cooperating examiner**

List, if known, the degree of future participation in the investigation by the cooperating examiner. If possible, list any factors which may affect how quickly and how extensively the cooperating examiner will be required to assist in the criminal investigation.

**12. Name of special agent assigned**

List the name of the primary special agent assigned to the case.

**Grade**

List that agent's GS level.

**Group**

List the group number of the primary special agent assigned to the case.

**Telephone Number**

List that agent's office phone number.

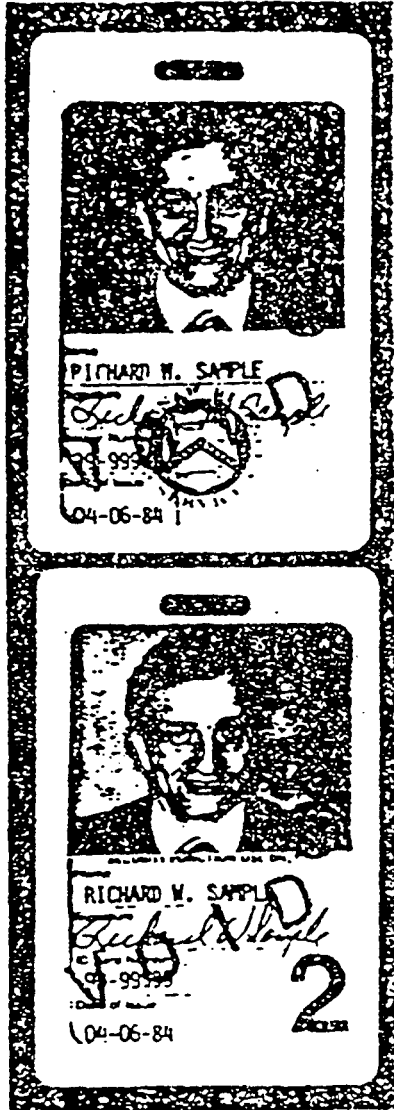
13. When the cooperating examiner is assigned by the Examination Division, this information will be filled in by Examination and returned to Criminal Investigation.

14. Attach copies of the first two pages of tax returns which are the subject of criminal investigation and all income schedules.

Exhibit 1(16)50-5

Samples of Authorized ID Cards

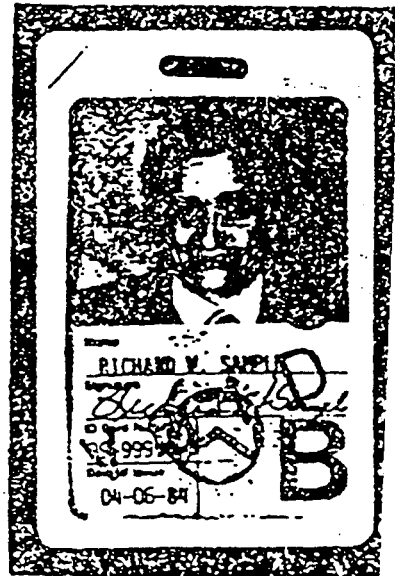
SAMPLES OF AUTHORIZED ID CARDS



NORMAL ID CARD - NOT AUTHORIZED  
ACCESS TO ANY RESTRICTED AREA

White card, blue background  
in photo area

EXAMPLE OF EMPLOYEE ID CARD



AUTHORIZED ACCESS TO  
RESTRICTED AREA "B"  
IN A DISTRICT

White card, yellow  
background in photo  
area

AUTHORIZED ACCESS TO  
RESTRICTED AREA "2"  
IN A SERVICE CENTER

White card, yellow  
background in photo  
area

EXAMPLE OF  
FEDERAL EMPLOYEE ID CARD

EXAMPLE OF  
IPS EMPLOYEE ID CARD

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business. Pocket commissions will only be displayed as prescribed in 3.2 of this Chapter. Misuse of pocket commissions is a violation of the Rules of Conduct and may be a violation of Federal Law (18 U.S.C. 499).

2. Pocket commissions are categorized as either "enforcement" or "nonenforcement." Enforcement commissions conform to the format prescribed by the Department of Treasury for Treasury Law Enforcement Officers and may be issued only to individuals in the 1811 series. Special Agents (Criminal Investigation) and Inspectors (Internal Security). Nonenforcement pocket commissions are those issued to all *other* authorized employees.

#### [1.16.4] 3.2 (02-19-1999)

##### Description

1. The enforcement pocket commission consists of a black leather combination shield/pocket commission case with cut-out on the outside for the enforcement shield. Inserted inside are laminated upper and lower pocket commission inserts. The upper insert contains the name of the employee. The lower insert contains the title, color photograph, and signature of the employee, certification of authority, serial number, and handwritten signature of the authorizing offices. The date of issue should be placed above the serial number.
2. The non-enforcement pocket commission consists of a red leather folder, embossed in gold on the outside with the Internal Revenue seal, the words "United States Treasury Department, Internal Revenue Service" and a straight line border. Affixed to the inside are laminated upper and lower pocket commission inserts. The upper insert contains the photograph and signature of the employee. The lower insert contains the name and title of the employee, date of issue, serial number, certification of authority of the employee, and the handwritten signature of the authorizing official.
3. In the upper right hand corner of each commission is a line for the office code. This should be the geographic code of the issuing office (the same code used on ID cards). Each commission will have a serial number with the prefix IR and the suffix "E" on enforcement commissions and "A" on nonenforcement commissions.
4. Clear, plastic covers may be used to protect the commission from wear, however, other adornments are not authorized.

#### [1.16.4] 3.3 (02-19-1999)

##### Authorizing Officials

1. The Commissioner, Deputy Commissioner, Chief Inspector, Chief Officer, Assistant Commissioner (Criminal Investigation), Regional Commissioners, District Directors and the Chief Counsel, Deputy Chief Counsel, Associates Chief Counsel and Regional Counsels are the only approving authority for issuance of pocket commissions to authorized employees under their supervision.

#### [1.16.4] 3.4 (02-19-1999)

##### Issuing Offices

1. Security offices at the Host Sites and National Office Headquarters Operations are responsible for issuing pocket commissions to authorized employees (see Exhibit 1.16.4.3-1). Security offices are responsible for maintaining and safeguarding supplies.
2. The Assistant Commissioner (Criminal Investigation) is the designated issuing officer for *enforcement pocket commissions* for Criminal Investigation personnel, Servicewide.
3. The Chief Inspector is the designated issuing officer for all Inspection personnel, Servicewide.

#### [1.16.4] 3.5 (02-19-1999)

##### Employees Authorized to Hold Pocket Commissions

1. Managers will identify those employees who are required to present proof of their authority during taxpayer contacts and will initiate requests for pocket commissions for authorized employees.
2. In order to hold a pocket commission, employees must meet the criteria in section 3.1 of this chapter and must be on the authorized list of pocket commission holders (see Exhibit 1.16.4.3-1).
3. To keep the list of authorized pocket commission holders current, recommended changes to the authorized list must be forwarded to the National Director, Real Estate Planning and Management Division (M:S:RE).

any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) One or more designated persons.

(2) One or more designated or described places or premises.

(3) One or more designated or described letters, parcels, packages, or other physical objects.

(4) One or more designated or described vehicles. Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.

(b) This section is not in derogation of the authority of the Secretary under any other law or regulation.

*Effective date.* This part shall become effective July 1, 1972.

[SEAL] SAMUEL R. PIERCE, JR.,  
*General Counsel.*  
EUGENE T. ROSSIDES,  
*Assistant Secretary.*

(Filed by the Office of the Federal Register on April 4, 1972, 8:47 a.m., and published in the issue of the Federal Register for April 5, 1972, 37 F.R. 6912)

## Treasury Department Order No. 221

### Establishment of the Bureau of Alcohol, Tobacco and Firearms

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

1. The purpose of this Order is to transfer, as specified herein, the functions, powers and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service) to the Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Director). The Director shall perform his duties

under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).

2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary in the administration and enforcement of the following provisions of law:

(a) Chapters 51, 52, and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;

(b) Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to activities administered and enforced with respect to chapters 51, 52, and 53;

(c) The Federal Alcohol Administration Act (27 U.S.C. Chapter 8);

(d) 18 U.S.C. Chapter 44 (relating to firearms);

(e) Title VII, Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix, sections 1201-1203);

(f) 18 U.S.C. 1262-1265; 1952; 3615 (relating to liquor traffic);

(g) Act of August 9, 1939 (49 U.S.C. Chapter 11); insofar as it involves matters relating to violations of the National Firearms Act;

(h) 18 U.S.C. Chapter 40 (relating to explosives); and

(i) Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934) relating to the control of the importation of arms, ammunition and implements of war.

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

4. (a) All regulations prescribed, all rules and instructions issued, and all forms adopted for the administration

and enforcement of the laws specified in paragraph 2 hereof, which are in effect or in use on the effective date of this Order, shall continue in effect as regulations, rules, instructions and forms of the Bureau until superseded or revised:

(b) All existing activities relating to the collection, processing, depositing or accounting for taxes (including penalties and interest), fees, or other moneys under the laws specified in paragraph 2 hereof, shall continue to be performed by the Commissioner of Internal Revenue to the extent now performed by the Alcohol, Tobacco and Firearms Division or the Assistant Regional Commissioner (Alcohol, Tobacco and Firearms) until the Director shall otherwise provide with the approval of the Secretary;

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

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

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

(c) The terms "internal revenue officer" and "officer, employee or agent of the internal revenue" wherever used in such regulations, rules, instructions and forms, in any law specified in paragraph 2 above, and in U.S.C. 1114, shall include officers and employees of the United States engaged in the administration and enforcement of the laws administered by the Bureau, who are appointed or



ployed by, or pursuant to the authority of, or who are subject to the directions, instructions or orders of, the Secretary.

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

6. (a) There shall be transferred to the Bureau all positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds of the Alcohol,

Tobacco and Firearms Division of the Internal Revenue Service, including those of the Assistant Regional Commissioners (Alcohol, Tobacco and Firearms), Internal Revenue Service.

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

(c) There shall be transferred to the Chief Counsel of the Bureau such

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

7. All delegations inconsistent with this Order are revoked.

8. This order shall become effective July 1, 1972.

CHARLS E. WALKER

*Acting Secretary of the Treasury*

Dated: June 6, 1972.

(Filed by the Office of the Federal Register on June 9, 1972, 8:50 a.m., and published in the issue of the Federal Register for June 10, 1972, 37 F.R. 11696)

# Summons Referral

(If more space is necessary, prepare attachments in quadruplicate.)

<p>1. Name and address of person summoned</p>	<p>8. Taxpayer's name and last known address if different from item 1.</p>
<p>2. Summons served at above address?  <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)</p>	<p>9. Taxpayer's TIN</p>
<p>3. Manner of service  <input type="checkbox"/> personal service on person summoned  <input type="checkbox"/> personal service on person authorized to accept service of process—name and title.   <input type="checkbox"/> delivered to other person over 16 years old at last known address—name and relationship to person summoned:   <input type="checkbox"/> left at last known address—not delivered to anyone: (specify method, i.e., slipped under door, attached to door, etc.)</p>	<p>10. Type of investigation  <input type="checkbox"/> delinquent account <span style="margin-left: 100px;"><input type="checkbox"/> examination</span>  <input type="checkbox"/> delinquent return <span style="margin-left: 100px;"><input type="checkbox"/> other (specify)</span>  <input type="checkbox"/> criminal</p>
<p>4. If third party summons, was notice given to all persons to whom records pertain?  <input type="checkbox"/> Yes (Indicate in Section B whether petition to quash summons was filed.) If notice(s) other than taxpayer, list names and addresses in Section C.)  <input type="checkbox"/> No (Explain in Section C.)  <input type="checkbox"/> Not a third party summons</p>	<p>11. Type of tax and periods involved (Explain in A. If periods in description of records are different from periods stated in summons caption.)</p>
<p>5. Date of service <span style="margin-left: 100px;">Appearance Date</span></p>	<p>12. All applicable tax periods included on summons?  <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)</p>
<p>6. Person summoned  <input type="checkbox"/> did not appear <span style="margin-left: 100px;"><input type="checkbox"/> appeared but did not provide all summoned information.</span></p>	<p>13. Statute of limitations problems?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>
<p>7. Does IRS possess any of summoned information?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>	<p>14. Tax liability involved assessed \$ <span style="float: right;">(Explain in Section C.)</span>                  estimated \$</p>
<p>A. Describe exact purpose of summons and relevance of summoned information to periods under investigation:</p>   <p>B. Reason for not complying, if known:</p>   <p>C. Other information: (include synopsis of attempts to obtain information before summons was issued, if summoned person is the taxpayer.)</p>	

Referring Officer's Name, Telephone Number, Office Location, and Office Symbols	Referring Officer's Signature	Date Referred
Issuing Officer's Name		Date Issued
Approved by (Signature and Title)—If Required	Date Approved	Reviewed by (Signature and Title)
		Date Reviewed

Form 4443 (Rev. 2-83)

Part 1 District Counsel

Department of the Treasury  
Internal Revenue Service

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## Driving records could have errors

### BMV dependent on reports of violations from courts

By Debra Jasper  
*Enquirer Columbus Bureau*

COLUMBUS - The head of the Ohio Bureau of Motor Vehicles acknowledged Tuesday he has "no way of knowing" how often courts fail to report DUIs to the bureau.

Registrar Frank Caltri-

der's comments came after last week's revelation that a DUI had inexplicably failed to show up on the driving record of state Rep. Larry Householder, a Republican from Perry County who is in line to become next speaker of the Ohio House.

Mr. Caltrider said the bureau doesn't have the staff to

audit court records to ensure that all DUI reports are sent in as required. But he said he hopes such failures are rare.

"Can there be mistakes? That's possible," he said.

Failures to report violations aren't the only potential problems.

Courts across Ohio reported nearly 1.9 million moving violations to the BMV in 1999. Mr. Caltrider said 60 to 70 percent of that information is sent electronically, but some courts send in com-

puter disks, magnetic tape and even copies of hand-written tickets.

Mr. Caltrider said errors are more likely when state data-entry clerks must type in information from tickets, which can be difficult to decipher. He said the bureau prefers that courts submit electronic data to "avoid posting a conviction to the wrong record."

State Rep. Jack Ford, D-Toledo, said he intends to draft legislation this month

that would clarify court reporting requirements. Mr. Ford, who is the House minority leader, said he is also investigating whether certain fees can be used to help courts pay for computerizing their systems.

Proper reporting is critical, Mr. Ford said, because judges, prosecutors and others rely on BMV records to determine whether someone is a repeat offender and should get harsher punishments.

"If we have some counties where you can get stopped for DUI and it doesn't get reported, we need to change that," Mr. Ford said.

Attention focused on DUI reporting requirements after *The Cincinnati Enquirer* found last week that Mr. Householder had a second DUI conviction that was not on his record.

Three years ago, Mr.

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Householder acknowledged that he was charged with DUI after he drove his car into a ditch on July 4 near Thornville in Perry County. At the time, the BMV report showed it was his first offense.

Mr. Caltrider said he didn't know why the bureau did not have records showing Mr. Householder had also been convicted of DUI in Perry County in 1984. He said he planned to ask the county to send in the records so he can add the conviction to Mr. Householder's file.

"This came to my attention through newspaper accounts. If someone brings it to our attention, we'll follow through," Mr. Caltrider said. He added, however, that people rarely notify the bureau if a DUI conviction fails to show on their records.

"That's the essence of this problem," he said.

At this point, Mr. Caltrider said, it would be difficult to tell whether the bureau erred by not recording Mr. Householder's conviction or whether the Perry County Court erred by not sending it in. Clerks in Perry County say they also do not know what happened in the case.

Ohio law says failure to report such a conviction "constitutes misconduct" and is grounds for removal from office.

Although the bureau has only Mr. Householder's 1997 conviction on file, the *Enquirer* last week reviewed files that show the Perry County legislator had been arrested twice in the 1980s for operating a vehicle while under the influence of alcohol and a third time for disorderly conduct while intoxicated.

In addition to the two DUI convictions, he pleaded guilty in 1988 to an amended charge of operating a vehicle recklessly in Athens and again in 1989 to the charge of being

disorderly outside an Athens bar.

Tom Gould, administrator for the Hamilton County clerk of courts, said he is not surprised that a 1984 DUI could go unreported for years. He said many counties still don't have the money to install the kind of sophisticated electronic system that Hamilton County uses to send records to the BMV.

He said the county sends in records of hundreds of thousands of violations to the BMV each year and before computerizing its records, errors were rampant. "It was an absolute nightmare," Mr. Gould said.

"If I have 76,000 traffic cases and I have an error rate of 1 percent, you are still looking at 760 cases that are screwed up," he said. "A 99 percent correct rate is good from a management perspective, but to those 760 people, it's still screwed up."

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