



COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

Fresno Compliance Center
Questionable W-4 Program
P.O. Box 24015
Fresno, CA 93779-4015
Telephone Number [REDACTED]

Date of This Letter: 11-10-03

Social Security Number: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

The authority for the Questionable W-4 program is provided by the Code of Federal Regulations, Title 26-Internal Revenue, Part 31, Section 3402(f)(2)-1, and sets forth the statutory basis for the withholding of tax from the payment of wages to an employee. The Department of the Treasury, pursuant to the authority granted to it by congress under Section 3402(n) and Sections 6001, 6011 and 7805 of the Code, has promulgated regulations, which expressly state that an employer is required to comply with the IRS directives regarding the withholding of taxes from an employee's wages. These regulations, which can be found in Section 31.3402(f)(2)-1 of the code of Federal Regulations ("C.F.R."), provide in Pertinent part as follows:

(ii) The Internal Revenue Service may find that a copy of a withholding exemption certificate submitted contains a materially incorrect statement or it may determine, after written request to the employee for verification of the statements on the certificate, that lacks sufficient information to determine if the certificate is correct. If the Internal Revenue Service so finds or determines and notifies the employer shall then consider the certificate to be defective for purposes of computing amounts of withholding.

(iii) If the Internal Revenue Service notifies the employer that the certificate is defective, the Internal Revenue Service will, based upon its findings, advise the employer that the employee either is not entitled to claim a status exempting the employee from withholding or is not entitled to claim a total number of withholding exemptions in excess of a number of specified by the Internal Revenue Service in the notice or both. The Internal Revenue Service will also specify the Internal Revenue Service office to be contacted for further information.

(iv) The Internal Revenue Service will provide the employer with a copy for the employee of each notice it furnishes to the employer under paragraph (g)(5) in addition to the notice furnished to the employer for his own use. The Internal Revenue Service will also mail a similar notice to the employee at the address of the employee as shown on the certificate under review.


I would also direct your attention to the following cases, in which the courts in question considered and rejected similar attacks on the legality and constitutionality of Treasury Regulations: *Chandler v. Perini Power Constructors, Inc.*, 520 F.supp. 1152, 81-2 U.S. Tax Cas. (CCH) p9655 (D.N.H.1981); *Kostyu v. Ford Motor Co.*, 798 F.2d 1414 (6th Cir.1986); *Edgar v. Inland Steel Co.*, 744F.2d 1276 (7th Cir. 1984); *Robinson v. A&M Electric, Inc.*, 713 F. 2d 608 (10th Cir. 1983); *Betlyon v. Shy*, 573 F. Supp. 1402, 83-2 U.S. Tax Cas. (CCH) P9707 (D.Del. 1983); *Martin v. Scott*, 2001-2 U.S. Tax Cas. (CCH) P50,685 (D Idaho 2001); *Kay v. Clark*, 2001-1 U.S. Tax Cas. (CCH) P50,260 (D. Nev. 2001).

Since the issues you have raised have already been settled in federal court, we do not intend to respond to further correspondence from you on the same or similar topics. We will be happy to assist you if you have legitimate questions or problems concerning your Form W-4.

I am available to assist you weekdays between the hours of 9:00 a.m. and 4:00 p.m. (Pacific Time) at 559-443-5121(this is not a toll-free number).

Sincerely,

/s/ Tim O'Daniel
Tim O'Daniel


Tax Examining Clerk

DOWNLOADED FROM:

***Sovereignty Education and Defense Ministry
(SEDM) Website***

<http://sedm.org>

