

The IRS Assessment Process

What is a IRS Assessment?



IRS 23C Assessment Processing Department

How do I obtain a IRS Assessment Certificate?

What will this IRS Assessment Certificate tell me?

How can I use this information to my benefit?

Volume 5, May 2002

DOWNLOADED FROM:

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

<http://sedm.org>

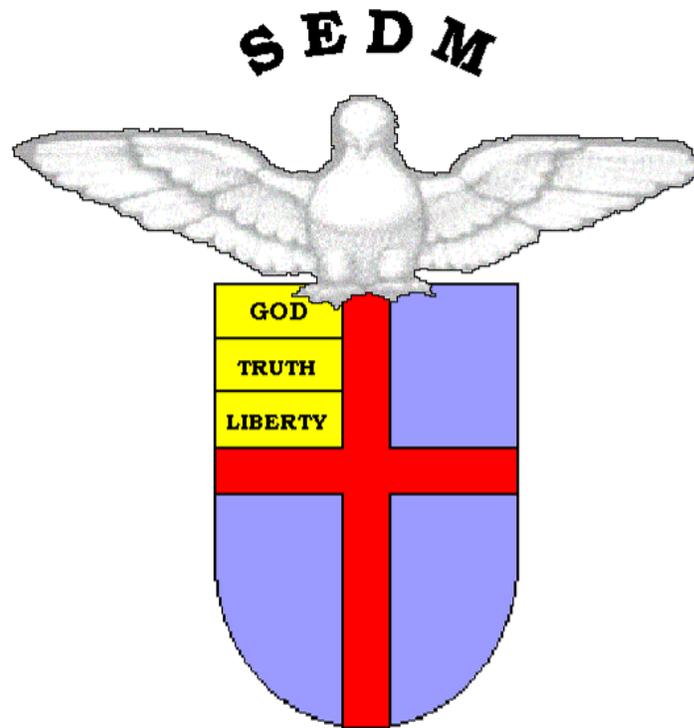


Table of Contents

Introduction to the IRS Assessment Process.....	003
Part One: The Assessment Process.....	005
Part Two: History of What an Assessment is.....	021
The Assessment.....	035
Intro to the FOIA Section.....	063
FOIA Request for a Form 23C.....	066
FOIA Request Concerning the NMF.....	089
FOIA Request For a Form 5734.....	092
FOIA Request for IRS form 2162.....	096
FOIA Request for the Names of the Assessment officer.....	104
The FOIA Summary.....	106

Introduction to the IRS Assessment Process

Without a VALID IRS ASSESSMENT there can be no case against you. That is why this information is so important. We have collected thousands of pages on this subject alone for our study so we can help those in need. You can prove through the use of the "Freedom of Information Act" that there has never been a valid IRS Assessment against you in most cases. Yet some people, for whatever reason, use IDIOT LEGAL ARGUMENTS and many of those teaching these arguments don't even understand the difference between a civil matter and a criminal matter. They get people all wound up into doing something that was never designed to work in the first place.

Give me a VALID IRS ASSESSMENT with all the supporting documents and I will pay what you say I owe today if your figures are correct in relationship to an actual Assessment.

Why don't they do a procedurally correct assessment in the first place? A tax cannot be owed or due until it has been properly assessed. Even though we have many books on IRS Assessments it doesn't mean we have all the answers. Our studies in this area show that this is a wide-open area for further research and development. The IRS has information under their total control that is kept in locked vaults or safes that we will never get to read or study. It is like pulling teeth trying to pry just a few little tidbits out of them. So much for "openness" in government.

Through the next 100 pages we are going to try to provide you with a good background about IRS Assessments. For some of you this might be an overdose, and for others an underdose. We also have some of the FOIA's included herein that will help you along your procedural highway.

Part one: The Assessment Process

A. We don't want anyone to misconstrue our position. We simply study the IRS Law, CFR's, T.O., T.D., Federal Register, IRM's, Handbooks, Policies, Publications, The Statutes at Large, Etc.

B. When we assemble those elements and present them to the government we expect them to follow their own laws. To our amazement they have admitted over and over they have never taken the time to read these items.

C. When you use this information in a hearing for some reason they get totally upset or sometimes sit there in total silence. Sometimes they get very upset and demand to know where you obtained this information and may even demand a copy of it!

1. You mean to tell me you have been working for the IRS how many years and you have never read your OWN code or manuals?

D. Two important factors we want you to remember are:

1. It's not how much information you have but how well you know it and how to use it and when to use it.
2. Just when you think you have something nailed down in comes some new information and upsets your apple cart. This is where you need to know how to appropriately incorporate this new information into your program where it fits.
3. This happens to us on a regular basis. We know we have only uncovered the tip of the iceberg. As many of you send us information our knowledge increases allowing us to help more people to integrate valid, credible evidence into their rebuttal presentations.

E. Exhibit A, is a few pages from the IRC code itself chapter 63, Assessment which is under subtitle F- Procedure and Administration.

1. If you notice on Exhibit A (2 of 4) this section is 6201 - Assessment Authority.
2. Important point chapters of the code are a separate item- unto themselves.
3. Code sections are a separate entity inside the code unto themselves.

4. Many people get very confused over this issue. You must have a working knowledge of the difference between chapters of the code and the sections of the code.

F. Go to exhibit A (2 of 4) sec. 6201. Assessment Authority and read this section carefully.

1. Now how much in stamp taxes do you owe?
2. Does your AMDISA have a 530 or 531 activity code posted to it?

G. The IRC (Internal Revenue Code) authorizes the IRS to make assessments and engage in collection procedures in cases where an income tax return showing a tax due which has been filed. But, the payment of the tax shown has not been made.

H. The LIMITED AUTHORITY of the IRS to make assessments is found in Exhibit A (2 of 4) at 26 USC 6201, which LIMITS the power of assessment to only taxes shown on a return that HAS been filed by a taxpayer.

I. There are NO provisions for assessments for income taxes in cases where NO return has been filed for the time period for which an assessment should have been made.

J. There is no authority to make any assessments for income taxes when no return or list has been filed.

K. Now give us a chance to explain those statements in H, I, and J.

L. We must first go to Exhibit B and read the statement by Roscoe L. Egger, JR. Commissioner of Internal Revenue.

1. Look at the major heading on the first page: "Role of Safeguard in Voluntary Compliance", 3rd paragraph on voluntary compliance.
2. You must voluntary self assess yourself and like Roscoe says if enough people ever loose their fear of us, the scam is over.
3. If you read Roscoe's statement from 1982 you will see he is worried about a couple million of delinquent returns and now they admit to 10's of millions of delinquent returns do you think they are a little worried today?

M. In Exhibit B (4 of 6) at the 3rd paragraph, he touches upon the examination and collection division sending referrals and case records to criminal investigation.

1. On your IMF or BMF if you have a "Z" posted in the upper right hand side where the "crin" is located, this is what has usually happened to you.
2. If there is another "Z" posted in the middle left hand side of your IMF or BMF then Criminal Investigation unit has your FILE flagged.
3. This is why we have a number of specific FOIA requests for you to send in if you have the first "Z" code.
4. If you have the second "Z" then we have other specific FOIA requests for you to send in.
5. These specific FOIA requests are only to be used when these "Z" conditions exist on your IMF or BMF.
6. If you do not have these "Z" codes then you would not be using these specific FOIA requests UNLESS other conditions exist on your IMF or BMF.
7. One item that some people cannot understand is that there are specific FOIA request that are only to be used if your FILE shows certain conditions exists.
8. Many people who have been self-assessing themselves get their FILES and expect then to show some excise taxable activity or that they have been classified as a high level drug dealer under the U.S.- U. K. Tax Treaty. That is not the way it usually works.
9. Exceptions: A number of people that we work with have been self-Assessing themselves get into major problems because the IRS seems to think they are not self-assessing themselves heavy enough. Under those conditions you might start seeing mean, nasty items being posed on your IMF or BMF.
10. Once you self-assess yourself, sign your 1040 IMF return and send it in there is no where we have found that they can change it except for certain math errors under the CP 00-99 system.

N. Go to Exhibit B (5 of 6) at the 3rd paragraph concerning Internal Investigations 1979 through 1981.

1. We find 1,687 cases of alleged IRS employee misconduct with 244 packing their bag and leaving. 431 suspended or reprimanded. 113 convicted for criminal activities.

2. We search out and look for the court cases arising out of the last group.
3. Most of these people who get caught wind up doing a very favorable plea bargain as the IRS sure does not want what these people have been doing revealed to the public.
4. Many of these cases deal with sex and drugs.
5. Then every once in a while some of these will show in the appeals court and bring out some very important items.
6. As you start reading a number of these cases you can start putting together a picture of what is happening on the inside of the IRS, the side they go to the extremes to make sure it is not revealed to the public.

O. Exhibit B (4 of 6) in the last paragraph it discusses "FORCED VOLUNTARILY COMPLIANCE"

1. It seems to us there is no end as to what they will pull or the lengths they will go to "FORCE VOLUNTARILY COMPLIANCE".
2. Then when you document their procedural due process violations they had to commit to try to force you into voluntary compliance or to extort more funds out of you and turn them into Internal Affairs or TIGIA instead of going after the IRS employee they come after you wanting to know where you got your hands on those IRM's
3. Sir, I simply went to several Law Libraries and did a little research and found all that information plus much more!

P. Exhibit C (1 of 1) (Overview of Tax Procedure). Read the statement by Thomas A. Maier has to say inside the box and if you notice he refers to the hearings of 1997 as "perceived Internal Revenue Service of Authority." We have the complete transcript of those hearings (item # 39 on our list) and after reading them we do not recall anything that was perceived only an attorney could refer to them as being perceived. Read them for yourself.

1. First arrow down we find voluntary compliance by taxpayer- The tax return and if your read Requirements of a Tax return the attorney puts in that "individual taxpayers are required to file a tax return or IRS form 1040."
2. This attorney must be using a different IRC other than the ones we have because we haven't found any sections of the code which require a individual to file a return.

3. How many times is a 1040 referred to in 26 USC?
4. (Three) Twice in the notes and once in the text itself and none of those deal with the individual citizen.
5. How many times is the 1040 referred to in the regulations?
6. 143 and none of those deal with an individual citizen.
7. The attorney who wrote this must have gotten an -F in his legal research class.
8. If the statement in the book is true then why don't they just give us the exact section of the United States Code with the exact wording?

-SECF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6503 of this title.

-CITE-

26 USC CHAPTER 63 - ASSESSMENT

01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT

-HEAD-

CHAPTER 63 - ASSESSMENT

-MISC1-

Subchapter	Sec. (FOOTNOTE 1)
A. In general	6201
(FOOTNOTE 1) Section numbers editorially supplied.	
B. Deficiency procedures in the case of income, estate, gift, and certain excise taxes	6211
C. Tax treatment of partnership items	6221
D. Treatment of electing large partnerships	6240

AMENDMENTS

1997 - Pub. L. 105-34, title XII, Sec. 1222(c), Aug. 5, 1997, 111 Stat. 1019, added item for subchapter D.

1996 - Pub. L. 104-188, title I, Sec. 1307(c)(3)(C), Aug. 20, 1996, 110 Stat. 1782, struck out item for subchapter D 'Tax treatment of subchapter S items'.

1982 - Pub. L. 97-354, Sec. 4(b), Oct. 19, 1982, 96 Stat. 1692, added item for subchapter D.

Pub. L. 97-248, title IV, Sec. 402(b), Sept. 3, 1982, 96 Stat. 667, added item for subchapter C.

1969 - Pub. L. 91-172, title I, Sec. 101(j)(63), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in item for subchapter B.

-SECF-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6867 of this title.

-CITE-

26 USC Subchapter A - In General

01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Subchapter A - In General

-MISC1-

Exhibit A 1 of 4

Sec.

- 6201. Assessment authority.
- 6202. Establishment by regulations of mode or time of assessment.
- 6203. Method of assessment.
- 6204. Supplemental assessments.
- 6205. Special rules applicable to certain employment taxes.
- 6206. Special rules applicable to excessive claims under sections 6420, 6421, and 6427.
- 6207. Cross references.

AMENDMENTS

- 1983 - Pub. L. 97-424, title V, Sec. 515(b)(3)(B), Jan. 6, 1983, 96 Stat. 2181, struck out reference to section 6424 in item 6206.
- 1970 - Pub. L. 91-258, title II, Sec. 207(d)(11), May 21, 1970, 84 Stat. 249, inserted reference to section 6427 in item 6206.
- 1965 - Pub. L. 89-44, title II, Sec. 202(c)(2)(B), June 21, 1965, 79 Stat. 139, substituted "'6420, 6421, and 6424'" for "'6420 and 6421'" in item 6206.
- 1956 - Act June 29, 1956, ch. 462, title II, Sec. 208(e)(3), 70 Stat. 397, substituted "'sections 6420 and 6421'" for "'section 6420'" in item 6206.
- Act Apr. 2, 1956, ch. 160, Sec. 4(b)(2), 70 Stat. 91, inserted item "'6206. Special rules applicable to excessive claims under section 6420'", and renumbered former item 6206 as 6207.

-SECRET-

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7851 of this title.

-CITE-

26 USC Sec. 6201

01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Sec. 6201. Assessment authority

-STATUTE-

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return

The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp

(A) Omitted stamps

Whenever 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 whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid

In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits

If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(b) Amount not to be assessed

(1) Estimated income tax

No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.

(2) Federal unemployment tax

No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

(c) Compensation of child

Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section 73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

(e) Deficiency proceedings

For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B.

-SOURCE-

Exhibit A 307

(Aug. 16, 1954, ch. 736, 68A Stat. 767; Pub. L. 89-44, title VIII, Sec. 809(d)(4)(A), June 21, 1965, 79 Stat. 168; Pub. L. 91-53, Sec. 2(b), Aug. 7, 1969, 83 Stat. 92; Pub. L. 91-172, title I, Sec. 101(j)(38), Dec. 30, 1969, 83 Stat. 530; Pub. L. 91-258, title II, Sec. 207(d)(1), (2), May 21, 1970, 84 Stat. 248; Pub. L. 93-406, title II, Sec. 1016(a)(8), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94-12, title II, Sec. 204(b)(2), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title XII, Sec. 1206(c)(2), title XIII, Sec. 1307(d)(2)(D), title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1704, 1727, 1834; Pub. L. 97-424, title V, Sec. 515(b)(6)(E), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-76, title II, Sec. 231(b)(2)(A), Aug. 12, 1983, 97 Stat. 429; Pub. L. 98-369, div. A, title IV, Sec. 412(b)(5), 474(r)(32), July 18, 1984, 98 Stat. 792, 845; Pub. L. 100-203, title X, Sec. 10301(b)(3), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 100-647, title I, Sec. 1015(r)(1), title VII, Sec. 7106(c)(2), Nov. 10, 1988, 102 Stat. 3572, 3773; Pub. L. 104-168, title VI, Sec. 602(a), July 30, 1996, 110 Stat. 1463.)

-MISC1-

AMENDMENTS

1996 - Subsecs. (d), (e). Pub. L. 104-168 added subsec. (d) and redesignated former subsec. (d) as (e).

1988 - Subsec. (a)(4). Pub. L. 100-647, Sec. 1015(r)(1), struck out par. (4) which read as follows: "If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 34 (relating to certain uses of gasoline and special fuels) or section 32 (relating to earned income), the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph."

Subsec. (b)(2). Pub. L. 100-647, Sec. 7106(c)(2), struck out "or tax imposed by section 3321" after "employment tax".

1987 - Subsec. (b)(1). Pub. L. 100-203 substituted "section 6654 or 6655" for "section 6154 or 6654".

1984 - Subsec. (a)(4). Pub. L. 98-369, Sec. 474(r)(32), substituted "section 32 or 34" for "section 39 or 43" in heading, and in text substituted "section 34" for "section 39" and "section 32" for "section 43".

Subsec. (b)(1). Pub. L. 98-369, Sec. 412(b)(5), amended par. (1) generally, substituting "estimated income tax required to be paid under section 6154 or 6654" for "estimated tax under section 6153 or 6154".

1983 - Subsec. (a)(4). Pub. L. 97-424 substituted "and special fuels" for ", special fuels, and lubricating oil" after "gasoline".

Subsec. (b)(2). Pub. L. 98-76 substituted "Federal unemployment tax or tax imposed by section 3321" for "Federal unemployment tax".

1976 - Subsec. (a). Pub. L. 94-455, Sec. 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (a)(3), (4). Pub. L. 94-455, Sec. 1206(c)(2), 1906(b)(13)(A), struck out "or his delegate" after "Secretary", substituted "mathematical or clerical error" for "mathematical

Statement by Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue



Mr. Chairman and Members of the Subcommittee,

I am pleased to be with you today for this oversight hearing into the Internal Revenue Service's systems for safeguarding taxpayers' rights. We appreciate this opportunity to put forth the service's position on such an important issue, and we hope to demonstrate to your satisfaction that the service gives a high priority and attention at all levels of the organization to safeguarding taxpayers' rights.

Accompanying me today are Harold Browning, the taxpayer ombudsman, who will have a separate statement to present at the conclusion of my testimony; Don Bergherm, associate commissioner for operations; and Bob Rebein, the assistant commissioner (inspection). Other service officials also are available for in-depth discussions of their specific program areas if necessary.

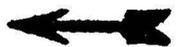
Role of Safeguards in Voluntary Compliance

Before going into the details of our safeguards, I would like to provide some background on the way the service views this area. This is important in order that we maintain an appropriate perspective on this issue.

No one is really going to disagree that collecting taxes is perhaps *the* most unpopular function of government. The annoyance felt by most people as they prepare and submit their tax returns, coupled with the sentiment that the taxes themselves are too high, combine to reinforce this unpopularity. At the same time, however, I think we can all agree that collecting taxes is perhaps *the* most important function of government. In fact, without the revenues so collected, all functions of government would ultimately grind to a halt.



Believe me when I tell you that the service knows full well how important voluntary compliance is to the success of our tax administration system. We simply cannot operate without it. We are well aware that the extent of that voluntary compliance -- and therefore the success of our system -- rests to a large degree on taxpayers perceptions of the fairness and equity of tax administration. In our role as the administrators of the system, we make every effort to insure the continual presence of that fairness and equity in all aspects of our operations, but particularly so in the area of taxpayers' rights. We will never knowingly take any action which would undermine taxpayers rights and the voluntary compliance system.



Of course, it would be foolish to say that mistakes do not occur. With total staffing of over 85,000 in fiscal year 1982, and anticipated personal contacts of all types with nearly 50 million taxpayers, the likelihood of occasional errors is obvious. The fact that personal judgment on the part of our employees is required in most, if not all, taxpayer contacts -- such as providing assistance, examining returns, collecting delinquent accounts, investigating possible criminal violations, etc. -- is certainly a factor present in the prospect for errors. Add to this the known complexity of the tax law, and the processing of nearly 167 million returns of all types in fiscal 1981, as well as issuing more than 71 million individual refunds, and the scope of our problem becomes clearer. This organization simply has too many contacts with the public -- too large a social presence, if you will -- to expect it to maintain a perfect record. I imagine large organizations in both the public and private sectors all share this problem.

None of this is meant as an excuse, however. The service has a commitment to all taxpayers to safeguard their rights in the system, and we constantly strive to improve our record in this respect.

Overview of IRS' Safeguards

We believe the system of safeguards currently in place is working well to protect taxpayers' rights. As I noted earlier, there will always be isolated instances of perceived abuse in an organization as large and diverse as this, but our system includes provisions for correcting these. We take it as an obligation to the taxpayers -- who pay *our* bills too -- to constantly monitor our system and improve upon it.

The first step in protecting taxpayers rights is to prevent abuse. For this reason, our system includes operating policies and procedures which establish both internal and external controls on operating units.

Perhaps the service's most visible safeguards are the existence of the taxpayer ombudsman and the problem resolution program. Mr. Browning will cover these areas in his testimony.

I would now like to briefly describe some of the most important procedural ways in which our systems are designed to prevent abuses. All the procedures I will note are contained in the internal revenue manual, the internal revenue code, or other official documents. Additionally, they are made known to taxpayers verbally and in a number of IRS publications, copies of which have been provided to the subcommittee staff.

1. Examination Division

In examining returns, the service makes every effort to correctly apply the tax laws enacted by the congress, to determine the reasonable meaning of various code provisions, and to perform audits in a fair and impartial manner with neither a government nor a taxpayer point of view.

By law taxpayers are required to produce records to substantiate amounts shown on their tax returns when requested. However, taxpayers have the right to expect that the time and place of the examination be reasonable. When we decide to examine a particular return, we notify the taxpayer in advance of the time and place of audit. Also we notify the taxpayer in writing or verbally what items on the return are being examined and/or what records need to be furnished. Should the taxpayer be unable to keep the scheduled appointment, we make every effort to work out another date or place convenient to the taxpayer.

In all examination proceedings, taxpayers have the right to have someone accompany them or legally represent them. Should taxpayers elect to have legal representation, we require that the taxpayers give their representatives a power-of-attorney covering the specific return(s) under examination. This requirement exists to protect the taxpayers rights during any service proceeding, and to protect against unauthorized disclosures of tax return information.

Sometimes, taxpayers do not appear for the examination and/or do not produce all the necessary records. When additional requests to appear and/or produce the records do not provide results, we have two alternatives. first, if an expense item is questioned, we may disallow unsubstantiated amounts and recompute the tax based upon the best available information. Or, if additional information is absolutely necessary to determine the additional tax, we may summon the records. When a summons is issued to a taxpayer or a third party and it is not complied with, a district court must rule on the enforceability of the summons, thus providing another safeguard.

In most instances, taxpayers do turn over the records necessary to complete the audit without the need for a summons. Proposed tax liability changes resulting from the examination are discussed with the taxpayer. In all cases, our procedures require that the taxpayer be informed about why the change is proposed and that he or she can appeal any unresolved examiner findings within IRS or to the courts. If the taxpayer and the service cannot agree, a formal notification of the proposed tax change is sent to the taxpayer. This notification informs the taxpayer of the specific changes in the liability and that he or she has 90 days to appeal to the court for a review of the findings.

2. Collection Division

Exhibit B 2 of 6

procedures and controls in place to accomplish this. I would like to focus on IRS procedures for using levies and seizures because these tools can have the most substantial impact on the taxpayer.

"Levy" refers to attachment of a taxpayer's assets in the possession of third parties, such as bank accounts and wages. "Seizure" refers to our seizure of a taxpayer's assets in his or her own possession, such as an automobile, business equipment, or building. During fiscal year 1981, the service in disposing of 2.2 million delinquent accounts used its levy power about 740,000 times and its seizure power about 8,800 times.

The service can levy or seize a delinquent taxpayer's property if assessed taxes are not paid within 10 days after notice and demand for payment. However, our procedures are designed to give the taxpayer a reasonable chance to voluntarily settle the tax liability before these more drastic enforcement actions are started. First, one of our service centers normally sends four notices to an individual taxpayer (three to businesses) over a 3-month period. After this, if payment has not been forthcoming, and we have had no other contact with the taxpayer, the account is sent to a district office where further attempts are made to contact the taxpayer. Publications explaining the collection process, as well as what the taxpayer's rights in the process are, are automatically mailed to the taxpayer along with the second tax delinquency notice.

We inform the taxpayer in the final mailing notice that if payment is not received within 10 days or if the taxpayer does not contact an IRS office, enforced collection -- levy or seizure -- may be taken. While some levy actions may be taken without further contact with taxpayers, we usually attempt to contact the taxpayers by telephone, field visits, or further correspondence to work out alternative ways to pay the tax delinquency before we levy taxpayers salaries or wages or seize their property. Also, when levies on wages and salaries and seizures are considered, procedures require us to attempt to notify the taxpayers in person that seizure will be the next action taken by IRS.

We have established more controls over the use of seizures than levies. Generally, we do not require written supervisory approval before levy; however, before the seizures are made we require written approval by at least a group manager. On a residence, the next highest level of management approval is required. Also, once seizure action is initiated, the cases are controlled and reviewed for procedural compliance by a special procedures staff within the collection division. Before our revenue officers can enter private premises, they must have either the written permission of the taxpayer or a writ of entry from a district court.

In addition to our employee making the seizure, another IRS employee or a law enforcement officer must be present when a seizure is made. This provides a witness to the propriety of the action. Further, the taxpayer is asked to be present when the seized property is inventoried.

If I may digress a minute, Mr. Chairman, I would like to point out one of the problems of public perception we have in the collection area. Many people have argued that the Internal Revenue Service is too tough in its collection practices. But that viewpoint is not universal. In fact, the general accounting office, in a November 5, 1981, report entitled "what IRS can do to collect more delinquent taxes," found that the service was not always taking *enough* action to collect delinquent taxes. In reviewing collection actions taken against 1,500 taxpayers in four districts, GAO concluded that the service was in essence *allowing* taxpayers to delay or even avoid paying their taxes because, among other things, of our concern for taxpayers rights. This same theory was advanced -- humorously -- in a recent article in a Portland, Oregon, newspaper. I have included that article with my statement for your information.

My point in mentioning this dilemma is to show how the service is often in the middle on such issues. We are either too harsh or too soft, depending on who you listen to. We have bent over backwards in many cases to assist taxpayers in meeting their obligations. For example, we frequently allow first-time delinquents to arrange installment payment agreements. However, this type of consideration was one of the points noted by GAO in their report. We are forced to balance the need to try and collect some \$20 billion in accounts receivable with the need to respect the rights of the individuals who are delinquent. It is far from an easy job, but I assure you we do our best.

3. Criminal Investigation Division

criminal violations and recommend any warranted criminal and civil sanctions. The most frequently prosecuted violations of these provisions are willful attempts to evade tax and failure to file tax returns. We have policies and procedures in place to assure that the individual rights of taxpayers are adequately protected in our criminal investigations. For instance, taxpayers are specifically advised upon the first official contact by special agents that they are under criminal investigation and are provided advice regarding their constitutional rights at that time. The service policy in this area exceeds the requirements of established case law. In addition, the recommendations for criminal prosecution are independently reviewed by attorneys in both the IRS and the department of justice before they are presented in court.

Our criminal investigations division receives information on potential tax fraud from three basic sources -- referrals from the examination and collection divisions, its own information gathering efforts, and information leads from other individuals and organizations.

Because examination and collection division employees are involved in auditing tax returns, locating persons who do not file tax returns, and collecting delinquent taxes, they are in a unique position to spot indications of fraud. Their referrals and case records generally provide criminal investigation division special agents enough detailed information to determine if a criminal investigation should be initiated. Special agents augment this information referral program by obtaining information from other sources, such as their own information gathering activities and leads from other "information items."

An information item is a tax-related communication received by us alleging or indicating that a particular individual or business may have violated the tax law. We receive many of these communications from varied sources, such as other federal agencies, the general public, informants, and other services employees. The bulk of these items are first screened at our ten service centers to determine their potential for a criminal tax violation, and those having such potential are sent to the districts for further evaluation by special agents.

In December 1979, we revised our guidelines for information gathering activities to include more specific information on the scope of these activities, and required that authorization requests have sufficient information to enable the authorizing official to determine whether the project is justified. Specific written authorization is required before special agents can initiate information gathering efforts designed to determine whether a particular individual, business, or group has violated a tax law. The district's criminal investigation division chief must approve requests in writing to conduct information gathering on individuals, and the request must specify the known or assumed name of the taxpayer and the reason the information gathering should be authorized. Investigations, known as information gathering projects, in areas of suspected noncompliance must be approved in writing by a district director or a higher level IRS official. The authorization must state the investigation purpose, define the scope, and specify the estimated length of the effort and the type of information to be gathered.

4. Internal Audit/Internal Security

Internal Audit reviews all IRS activities to determine whether normal management controls are operating properly and whether taxpayers are treated fairly and equitably. Internal Audit performs independent reviews and appraisals of all IRS operations to assure that operations are efficient, effective and in accordance with laws and regulations. This responsibility includes periodic testing and reporting on the effectiveness of internal controls to prevent IRS abuse of authority or taxpayer rights violations.

During fiscal years 1980 and 1981, Internal Audit completed 20 audits addressing issues that impact on taxpayer rights. These audits covered such IRS activities as management controls to avoid unnecessary repetitive audits, service centers responsiveness to taxpayer complaints, and the propriety of enforced collection actions. The audit of enforced collection actions covered the increasing use of and alleged abuses involving liens, levies, and seizures, and the impact of these actions on small business taxpayers. Based on the evaluation of 840 randomly selected business tax delinquencies, Internal Audit concluded that the enforced collection actions were warranted, and that reasonable opportunity was given the taxpayers to pay their taxes voluntarily.

program to review internal controls, to determine if material fraud exists and to evaluate the effectiveness of these controls in deterring and detecting material fraud. The audits concentrate on IRS programs determined to be most susceptible to breakdown in control and breaches of integrity. In some cases, these audits directly impact on taxpayer rights, such as audits of IRS actions in the collecting and depositing of delinquent taxes and securing delinquent tax returns, suspending accounts from active collection activity, and determining and assessing tax deficiencies.

The Internal Security division is responsible for administering programs to protect the integrity of IRS. To carry out this responsibility, Internal Security conducts background investigations of current and prospective employees and performs anti-corruption tests to identify possible integrity violations. Internal Security also makes presentations to IRS employees on our integrity awareness program, their conduct responsibilities, and the consequences of not meeting those responsibilities. However, its major efforts in safeguarding taxpayer rights are in investigating allegations of serious employee misconduct. Such allegations may come from taxpayer complaints; referrals by other government agencies, IRS divisions, or employees; or from self-initiated integrity investigation projects.



During fiscal years 1979 through 1981, Internal Security investigated 1,687 cases of alleged employee misconduct. As a result of these investigations, 244 employees were separated from IRS, 431 were suspended or reprimanded, and 113 were convicted for criminal activities. These investigations included complaints of extortion, bribery, conflicts of interest, and disclosure of tax information by IRS employees, and resulted in the prosecution of, and/or adverse personnel action being taken against, IRS employees. We believe that Internal Security investigations are of high quality and that case dispositions are appropriate in light of the evidence developed.

Although taxpayers can complain directly to our Internal Security division, some misconduct allegations also come from our own managers and employees. These managers and employees are made aware of their responsibilities to report certain types of misconduct cases to Internal Security through the IRS handbook on employee responsibilities and conduct, and Internal Security's integrity awareness program. During fiscal years 1980 and 1981, Internal Security made 1,821 integrity awareness presentations to about 47,000 employees.

Generally, supervisors and managers are expected to handle employee problems of an administrative nature such as not following prescribed procedures or treating taxpayers discourteously, while Internal Security handles cases such as extortion, bribery, and conflicts of interest. Also, if after initial evaluation of an allegation, Internal Security determines that employee misconduct does not warrant an Internal Security investigation, the facts of the case will be sent to IRS management for any needed administrative action.

In addition to investigating allegations reported to it, Internal Security does some searching on its own. During fiscal years 1980 and 1981, Internal Security spent considerable time on integrity projects to assess the extent of criminal conduct occurring due to internal control weaknesses or through circumvention of controls, and identified 281 cases requiring investigations. For example, in one project Internal Security identified an employee who was selling confidential tax information. After a full investigation, the employee was dismissed and prosecuted, and was sentenced to one year in prison and fined \$1,000.

Role of Training in Safeguard System

The procedures that I have just discussed are designed to protect taxpayer rights. However, they will be effective only to the degree that our employees have the knowledge and ability to carry them out. In this respect, the service has an extensive training program, offering over 500 courses in fiscal year 1981.

The amount of required classroom training is substantial. For example, during their first five years, revenue agents receive about 24 weeks of training, and revenue officers receive about 12 weeks. In January 1982, the training for our special agents was redesigned, and increased from 17 to 30 weeks of formal training during these employees first few years. In addition to the classroom training, our employees receive structured on-the-job training. We also have a formal program for continuing

Safeguarding taxpayer rights is an integral part of our activities. Therefore, instead of providing a specific training course on the subject, points on safeguarding taxpayer rights are included where needed in all training programs. For example, in the revenue officers' initial 7-week training program, one section deals with safeguarding taxpayer rights and, in addition to listing examples of those rights, stresses that taxpayers should receive prompt, courteous, and impartial treatment. The training also teaches that, when dealing with taxpayers, revenue officers should empathize with the taxpayer and initially assume that the taxpayer wants to comply.

Internal and External Controls

Devising policies, procedures, and training is not enough; service management must also have information on how well the system is actually safeguarding taxpayer rights. Recognizing this, we have devised controls both internal and external to our operating divisions to assure that policies and procedures are being properly implemented and are providing adequate protection of taxpayer rights.

One example of a primary internal control is supervisory review of work performed by subordinates. In our collection division, group managers provide first-line supervision of collection activities and employees. Collection cases are assigned to different-graded employees on the basis of case difficulty. Group managers receive monthly listings of cases to assist them in controlling and reviewing their groups workload. In addition, our procedures require group managers to review and analyze case files, as well as to accompany their employees on field visits and observe office interviews. The reviews and analyses may be unannounced, and can take place as often as the group manager feels is necessary. The objectives of these reviews and field visits are to assure that revenue officers are following service policies and procedures, and to help revenue officers improve their collection techniques.

External controls include post reviews and Internal Audits. Our regional offices periodically review districts activities. During these reviews, regional offices have evaluated the districts use of such tools as levies and seizures, including the appropriateness of that use, as well as all district activities, including how well district employees safeguard taxpayer rights.

Conclusion

Mr. Chairman, I think my testimony here has covered the service's systems for safeguarding taxpayers rights in sufficient detail to show that we are sensitive to these rights and we are constantly striving to improve our methods of protecting them. We welcome constructive suggestions from all quarters on ways to improve them even more.

My colleagues and I will be pleased to try and answer any questions you and the other members may have.

Exhibit B 6 of 6

Practitioner Observation

Thomas A. Maier, Attorney at Law
 Venture Counsel Associates, LLP

"The Internal Revenue Service Restructuring and Reform Act of 1998 makes fundamental changes in the relationship between the Internal Revenue Service and the taxpaying public. The Act may have the effect of modifying the culture of the Internal Revenue Service to increase its focus on taxpayer service and to reduce its emphasis on mere revenue collection.

The Act demonstrates that the tax administration and collection process can be directly responsive to the popular political will. Both the House and the Senate approved the Act in near-unanimous votes following 1997 and 1998 Congressional hearings on perceived Internal Revenue Service abuses of authority. The Act has the potential to change the existing image of the Internal Revenue Service to one more consistent with taxpayer assistance and service."

VOLUNTARY COMPLIANCE BY TAXPAYER – THE TAX RETURN 

In marked contrast to many other countries' systems of taxation, the United States tax system is one based upon the voluntary compliance of the taxpayer.

Requirements of a Tax Return

Under the U.S. system of voluntary compliance, the Code requires the taxpayer to self-assess tax liability. The principal tool in this process is the tax return. [IRC §6011] Each major category of taxpayer reports tax information using a return specifically designed for that type of taxpayer or for the type of income, deduction, or credit reported. For example, to report taxable income for each year for federal income tax purposes, individual taxpayers are required to file a tax return on IRS Form 1040, with accompanying specific IRS schedules or taxpayer statements, 

Exhibit c 1 of 2

Part Two: History of What An Assessment is

A. We feel in order to understand the IRS Assessment process it is necessary to understand what constitutes proper assessment and exactly when it is to occur.

B. Section 6203 of title 26 USC describes the procedure for making an assessment.

Exhibit D 1 of 1:

"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 of the taxpayer, the secretary shall furnish the taxpayer a copy of the record of the assessment."

1. Is title 26 USC Law?
2. No it is nearly prima Facia evidence that there could be a law out there somewhere that could possibility say that.
3. Exhibit D 1 of 1: An Assessment must be made to record the liability.
4. Where is the assessment?
5. This recording is done by regulations, which would be section, 301.6203-1 Method of Assessment Exhibit E, 2 of 5.
6. You are to be furnished a copy of the record of the assessment.
7. How do you get this assessment?
8. Go to the FOIA section page 63.

C. Exhibit E, 2 of 5

"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 serving 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 request 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."

D. After you read the above Sec. 301. 6203-1 several times and break it apart it just might dawn on you that this just doesn't seem to be the way the IRS performs assessments.

1. We want to refer you to the FOIA section page 63.
2. If the IRS is trying to extort more than you feel they have a right to extort, then you might want to do something about that problem. Some people believe that one penny is extortion

E. United States Statutes at Large 1939, Volume 53 Part 1 Internal Revenue Code February 10, 1939; chapter 35 Assessment.

1. Where can you get the 1939 tax code? It is on our Level III CD.
2. Even though many sections of the IRC refer us back to the "1939 Tax Code", we have been in dozens of law libraries and we have yet to find a stand alone "1939" tax code book complete in the libraries, nor have I found a law publishing company that publishes one.
3. Why do they go to such great lengths to hide or keep this information from us?
4. They have hundreds of people writing code sections and CFR sections plus a number of other items with every one of them written to benefit them and not us.
5. When we try to obtain the background material used in constructing certain items they scream bloody murder and fight tooth and nail over every little issue. What are they hiding?

F. INTERNAL REVENUE LAWS in force May 1,1920 Exhibit G (1 of 3).

1. From the current code of today back to 1920 we again find the Assessment section showing how the Assessments were to be recorded.
2. If you notice at the top of the page of exhibit G page 1 it is titled "BUREAU OF INTERNAL REVENUE", what happened to change that name to Internal Revenue Service?

3. In the late 40's and early 50's the Bureau of Internal Revenue had come under a major investigation, which exposed massive fraud.
4. The Democratic Party in Congress which was in charge of this investigation in which hundreds went to jail and hundreds resigned.
5. To restore confidence in the public at large the Democrats changed the name from Bureau of Internal Revenue to Internal Revenue Service. Now doesn't that just make you feel good all over?

Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Sec. 6202. Establishment by regulations of mode or time of assessment

-STATUTE-

If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary may establish the same by regulations.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 struck out 'or his delegate' after 'Secretary'.

-CROSS-

CROSS REFERENCES

Rules and regulations for collection of taxes, see section 7805 of this title.

-CITE-

26 USC Sec. 6203

01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Sec. 6203. Method of assessment

-STATUTE-

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.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 struck out 'or his delegate' after 'Secretary' wherever appearing.

-SECREP-

Exhibit 0 of 2

interest in property, see §20.6163-1 of this chapter (Estate Tax Regulations).

§ 301.6164-1 Extension of time for payment of taxes by corporations expecting carrybacks.

For provisions relating to the extension of time for payment of taxes by corporations expecting carrybacks, see §§1.6164-1 to 1.6164-9, inclusive, of this chapter (Income Tax Regulations).

§ 301.6165-1 Bonds where time to pay the tax or deficiency has been extended.

For provisions concerning bonds where time to pay a tax or deficiency has been extended, see the regulations relating to the particular tax.

§ 301.6166-1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

For provisions relating to the extension of time for payment of estate tax where estate consists largely of interest in closely held business, see §§20.6166-1 to 20.6166-4, inclusive, of this chapter (Estate Tax Regulations).

ASSESSMENT

In General

§ 301.6201-1 Assessment authority.

(a) *In general.* The district director is authorized and required to make all inquiries necessary to the determination and assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law. The district director is further authorized and required, and the director of the regional service center is authorized, to make the determinations and the assessments of such taxes. However, certain inquiries and determinations are, by direction of the Commissioner, made by other officials, such as assistant regional commissioners. The term "taxes" includes interest, additional 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 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 without 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.

(d) If so much of the credit claimed on the return for income taxes withheld at the source as exceeds 2 percent of the interest on tax-free covenant bonds is greater than the amount of such credit allowable, the unpaid portion of the tax attributable to such difference will be collected not as a defi-

ciency but as an underpayment of the tax shown on the return.

(e) This section may be illustrated by the following examples:

Example 1. The amount of income tax shown by the taxpayer upon his return for the calendar year 1954 was \$1,600. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. He claimed a credit in the amount of \$2,050 for tax withheld at source on wages under section 3402, and a refund of \$450 (not a rebate under section 6211) was made to him as an overpayment of tax for the taxable year. It is later determined that the correct tax for the taxable year is \$1,850. A deficiency of \$250 is determined as follows:

Tax imposed by subtitle A	\$1,850	
Tax shown on return	\$1,600	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,600	
Amount of rebates made	None	
Balance		51,600
Deficiency		250

Example 2. The taxpayer made a return for the calendar year 1954 showing a tax of \$1,250 before any credits for tax withheld at the source. He claimed a credit in the amount of \$800 for tax withheld at source on wages under section 3402 and \$60 for tax paid at source under section 1451 upon interest on bonds containing a tax-free covenant. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. The district director determines that the 2 percent tax paid at the source on tax-free covenant bonds is \$40 instead of \$60 as claimed by the taxpayer and that the tax imposed by subtitle A is \$1,360 (total tax \$1,400 less \$40 paid at source on tax-free covenant bonds). A deficiency in the amount of \$170 is determined as follows:

Tax imposed by subtitle A (\$1,400 minus \$40)	\$1,360	
Tax shown on return (\$1,250 minus \$60)	\$1,190	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,190	
Amount of rebates made	None	
Balance		1,190
Deficiency		170

(f) As used in section 6211, the term *rebate* means so much of an abatement, credit, refund, or other repayment as is made on the ground that the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or the excise tax imposed by chapter 41, 42, 43, or 44, is less than the excess of (1) the

amount shown as the tax by the taxpayer upon the return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. For example, assume that the amount of income tax shown by the taxpayer upon his return for the taxable year is \$600 and the amount claimed as a credit under section 31 for income tax withheld at the source is \$900. If the district director determines that the tax imposed by subtitle A is \$600 and makes a refund of \$300, no part of such refund constitutes a "rebate" since the refund is not made on the ground that the tax imposed by subtitle A is less than the tax shown on the return. If, however, the district director determines that the tax imposed by subtitle A is \$500 and refunds \$400, the amount of \$100 of such refund would constitute a rebate since it is made on the ground that the tax imposed by subtitle A (\$500) is less than the tax shown on the return (\$600). The amount of such rebate (\$100) would be taken into account in arriving at the amount of any deficiency subsequently determined.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7102, 36 FR 5498, Mar. 24, 1971; T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7838, 47 FR 44249, Oct. 7, 1982; T.D. 8628, 60 FR 62212, Dec. 5, 1995]

§ 301.6212-1 Notice of deficiency.

(a) *General rule.* If a district director or director of a service center (or regional director of appeals), determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B, or excise tax imposed by chapter 41, 42, 43, or 44, of the Code, such official is authorized to notify the taxpayer of the deficiency by either registered or certified mail.

(b) *Address for notice of deficiency*—(1) *Income, gift, and chapter 41, 42, 43, and 44 taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in respect of income tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a

legal disability, or, in the case of a corporation, has terminated its existence.

(2) *Joint income tax returns.* If a joint income tax return has been filed by husband and wife, the district director (or assistant regional commissioner, appellate) may, unless the district director for the district in which such joint return was filed has been notified by either spouse that a separate residence has been established, send either a joint or separate notice of deficiency to the taxpayers at their last known address. If, however, the proper district director has been so notified, a separate notice of deficiency that is a duplicate original of the joint notice, must be sent by registered mail prior to September 3, 1958, and by either registered or certified mail on and after September 3, 1958, to each spouse at his or her last known address. The notice of separate residences should be addressed to the district director for the district in which the joint return was filed.

(3) *Estate tax.* In the absence of notice, under the provisions of section 6903 as to the existence of a fiduciary relationship, to the district director for the district in which the estate tax return was filed, notice of a deficiency in respect of the estate tax imposed by chapter 11, subtitle B, of the Code shall be sufficient if addressed in the name of the decedent or other person subject to liability and mailed to his last known address.

(c) *Further deficiency letters restricted.* If the district director or director of a service center (or regional director of appeals) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same "calendar period" (as defined in § 25.2502-1(c)(1)), estate tax with respect to the taxable estate of the same decedent, chapter 41, 43, or 44 tax of the taxpayer for the same taxable year, section 4940 tax for the same taxable year, or chapter 42 tax of the taxpayer (other than under section 4940) with respect to the same act (or failure to act) to which such petition relates. This restriction shall

not apply in the case of fraud, assertion of deficiencies with respect to any qualified tax (as defined in paragraph (b) of § 301.6361-4) in respect of which no deficiency was asserted for the taxable year in the notice, assertion of deficiencies with respect to the Federal tax when deficiencies with respect to only a qualified tax (and not the Federal tax) were asserted for the taxable year in the notice, assertion of greater deficiencies before the Tax Court as provided in section 6214(a), mathematical errors as provided in section 6213(b)(1), termination assessments in section 6851 or 6852, or jeopardy assessments as provided in section 6861(c). Solely for purposes of applying the restriction of section 6212(c), a notice of deficiency with respect to second tier tax under chapter 43 shall be deemed to be a notice of deficiency for the taxable year in which the taxable event occurs. See § 53.4963-1(e)(7)(iii) or (iv) for the date on which the taxable event occurs.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7238, 37 FR 28739, Dec. 29, 1972; T.D. 7579, 43 FR 59360, Dec. 20, 1978; T.D. 7838, 47 FR 44249, Oct. 7, 1982; T.D. 7910, 48 FR 40376, Sept. 7, 1983; T.D. 8084, 51 FR 16305, May 2, 1986; T.D. 8628, 60 FR 62212, Dec. 5, 1995]

§ 301.6213-1 Restrictions applicable to deficiencies; petition to Tax Court.

(a) *Time for filing petition and restrictions on assessment*—(1) *Time for filing petition.* Within 90 days after notice of the deficiency is mailed (or within 150 days after mailing in the case of such notice addressed to a person outside the States of the Union and the District of Columbia), as provided in section 6212, a petition may be filed with the Tax Court of the United States for a redetermination of the deficiency. In determining such 90-day or 150-day period, Saturday, Sunday, or a legal holiday in the District of Columbia is not counted as the 90th or 150th day. In determining the time for filing a petition with the Tax Court in the case of a notice of deficiency mailed to a resident of Alaska prior to 12:01 p.m., e.s.t., January 3, 1959, and in the case of a notice of deficiency mailed to a resident of Hawaii prior to 4 p.m., e.d.s.t., August 21, 1959, the term "States of the Union" does not include Alaska or Hawaii, respectively, and the 150-day period ap-

plies. In determining the time within which a petition to the Tax Court may be filed in the case of a notice of deficiency mailed to a resident of Alaska after 12:01 p.m., e.s.t., January 3, 1959, and in the case of a notice of deficiency mailed to a resident of Hawaii after 4 p.m., e.d.s.t., August 21, 1959, the term "States of the Union" includes Alaska and Hawaii, respectively, and the 90-day period applies.

(2) *Restrictions on assessment.* Except as otherwise provided by this section, by sections 6851, 6852, and 6861(a) (relating to termination and jeopardy assessments), by section 6871(a) (relating to immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership cases), or by section 7485 (in case taxpayer petitions for a review of a Tax Court decision without filing bond), no assessment of a deficiency in respect of a tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 of the Code and no levy or proceeding in court for its collection shall be made until notice of deficiency has been mailed to the taxpayer, nor until the expiration of the 90-day or 150-day period within which a petition may be filed with the Tax Court, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. As to the date on which a decision of the Tax court becomes final, see section 7481. Notwithstanding the provisions of section 7421(a), the making of an assessment or the beginning of a proceeding or levy which is forbidden by this paragraph may be enjoined by a proceeding in the proper court. In any case where the running of the time prescribed for filing a petition in the Tax Court with respect to a tax imposed by chapter 42 or 43 is suspended under section 6213(e), no assessment of a deficiency in respect of such tax shall be made until expiration of the entire period for filing the petition.

(b) *Exceptions to restrictions on assessment of deficiencies*—(1) *Mathematical errors.* If a taxpayer is notified of an additional amount of tax due on account of a mathematical error appearing upon the return, such notice is not deemed a notice of deficiency, and the taxpayer has no right to file a petition with the

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE FIRST SESSION OF THE
SEVENTY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1939

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER
THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, INDEXED, AND PUBLISHED BY AUTHORITY OF LAW
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 53

PART 1

INTERNAL REVENUE CODE

APPROVED FEBRUARY 10, 1939



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1939

Exhibit F of 2

TABLE OF CONTENTS

CHAPTER 35—ASSESSMENT

Sec. 3640. Assessment authority.
Sec. 3641. Certification of assessment lists to collectors.
Sec. 3642. Supplemental assessment lists.
Sec. 3643. Other laws applicable.
Sec. 3644. Establishment by regulation of mode or time of assessment.
Sec. 3645. Periods of limitation upon assessment.
Sec. 3646. Cross references.

CHAPTER 35—ASSESSMENT



SEC. 3640. ASSESSMENT AUTHORITY.

The Commissioner is authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this title, or accruing under any former internal revenue law, where such taxes have not been duly paid by stamp at the time and in the manner provided by law.

SEC. 3641. CERTIFICATION OF ASSESSMENT LISTS TO COLLECTORS.

The Commissioner shall certify a list of such assessments when made to the proper collectors, respectively, who shall proceed to collect and account for the taxes and penalties so certified.

SEC. 3642. SUPPLEMENTAL ASSESSMENT LISTS.

(a) AUTHORIZATION.—Whenever it is ascertained that any list delivered to any collector is imperfect or incomplete in consequence of the omission of the name of any person liable to tax, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return made by any person liable to tax, the Commissioner may, at any time within the period prescribed for assessment, enter on any monthly or special list:

(1) ORIGINAL ASSESSMENTS.—The name of such person so omitted, together with the amount of tax for which he may be liable, and also

(2) ADDITIONAL ASSESSMENTS.—The name of any such person in respect to whose return, as aforesaid, there has been any omission, undervaluation, understatement, or false or fraudulent statement, together with the amount for which such person may be liable, above the amount for which he may have been assessed upon any return made as aforesaid.

(b) CERTIFICATION TO COLLECTOR.—The Commissioner shall certify and return such list to the collector as required by law.

SEC. 3643. OTHER LAWS APPLICABLE.

All provisions of law for the ascertainment of liability to any tax, or the assessment or collection thereof, shall be held to apply, so far as may be necessary, to the proceedings authorized and directed under this chapter.

SEC. 3644. ESTABLISHMENT BY REGULATION OF MODE OR TIME OF ASSESSMENT.

Whenever the mode or time of assessing any tax which is imposed is not provided for, the Commissioner may establish the same by regulation.

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



No.
College of Law
UNIVERSITY OF CINTI

WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

Exhibit G 1093

CONTENTS.

	Page.
Introduction	5
Abbreviations	7
Table of sections.....	9
List of Commissioners of Internal Revenue (1862-1919).....	15
Internal-revenue taxation.....	17
List of acts of Congress relating to internal revenue (1861-1919).....	27
Internal-revenue collection districts.....	47
List of internal-revenue regulations.....	49

INTERNAL REVENUE LAWS.

Organization of Office of Internal Revenue.....	51
CHAPTER 1. Officers of internal revenue.....	69
2. Assessments and collections.....	103
3. Special taxes.....	153
4. Distilled spirits.....	187
5. Fermented liquors.....	305
6. Wines and other beverages.....	325
7. National prohibition.....	345
8. Tobacco and snuff.....	371
9. Cigars, cigarettes, etc.....	395
10. Opium.....	413
11. Oleomargarine; adulterated butter; process or renovated butter.....	429
12. Filled cheese.....	445
13. Mixed flour.....	451
14. White phosphorus matches.....	457
15. United States cotton futures act.....	463
16. Income taxes.....	473
17. War-profits and excess-profits taxes.....	513
18. Estate tax.....	525
19. Tax on transportation and other facilities.....	533
20. Insurance.....	537
21. Admissions and dues.....	539
22. Excise taxes.....	543
23. Stamp taxes on specific objects.....	551
24. Tax on employment of child labor.....	565
25. Playing cards.....	569
26. Banks and bankers.....	575
27. Exemption of Liberty and other bonds from taxation.....	581
28. Provisions common to several objects of taxation.....	587

APPENDIX.

(Containing miscellaneous provisions and laws of a general nature applicable to the administration of the internal-revenue laws.)

CHAPTER 1. Suits and prosecutions, jurisdiction, practice, evidence, liens, limitations, compromises, remissions; United States attorneys, duties as to prosecutions, reports; clerks of courts, reports of, etc.....	635
2. Duties of officers charged with receiving or disbursing public moneys, penalties for embezzlement and official misconduct, proceedings against delinquent officers, etc.....	661

- | | |
|--|---|
| <p>Sec.
 1314. Act of February 24, 1919. Certificates of indebtedness and uncertified checks receivable for taxes payable other than by stamp.</p> <p>3212. Collectors' monthly statement; accounts.</p> <p>3213. Suits for fines, penalties, forfeitures, and taxes.</p> <p>3214. Suits for taxes, etc., not to be brought without sanction of Commissioner.</p> <p>3215. Regulations for government of district attorneys, marshals, etc.</p> <p>3216. Moneys recovered to be paid to collectors.</p> <p>3217. Delinquent collectors; proceedings by distraint.</p> <p>3218. Collectors to be charged with what; due diligence.</p> <p>3219. Death, etc., of collector; uncollected balances.</p> <p>3220 (amended). Remission and refunding of taxes, penalties, etc.</p> | <p>Sec.
 3221 (amended). Taxes on spirits accidentally destroyed.</p> <p>3222. Retrospective effect of preceding section.</p> <p>3223 (amended). When tax on lost spirits is indemnified by insurance.</p> <p>3224. Suits to restrain assessment or collection of taxes prohibited.</p> <p>3225 (amended). Suits to recover taxes collected under second assessment; burden of proof as to fraud, etc.</p> <p>3226. Suits for recovery of taxes wrongfully collected.</p> <p>3227. Limitation of suits for recovery of taxes wrongfully collected.</p> <p>3228. Claims for refunding; limitation.</p> <p>3229. Compromises.</p> <p>3230. Discontinuances of certain prosecutions.</p> <p>3231. Continuances of cases.</p> |
|--|---|

→ Canvass of districts for objects of taxation.

SEC. 3172. [Amended by sec. 34, act of August 27, 1894 (28 Stat., 509); reenacted by sec. 16, act of September 8, 1916 (39 Stat., 756), and by sec. 1317, act of February 24, 1919 (40 Stat., 1057).] Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

The list referred to should be on Form 24 and should contain nothing but taxes which should be reported for assessment. The report of the deputy should be made so as to reach the collector on or before the 5th day of the month succeeding that for which the report is made. (Regulations No. 1, revised, p. 9.)

Monthly visits of deputy to be discontinued. (T. D. 2236.)

For requirements as to collectors' monthly or special assessment lists, see Sec. 3184, R. S.

Instructions to collectors with reference to special-tax returns. (Circular No. 561, June 18, 1907; T. D. 92.)

For methods employed in ascertaining names of persons liable to pay special taxes as rectifiers, wholesale liquor dealers, and retail liquor dealers, see T. D. 1782.

SEC. 3173. [Amended by sec. 34, act of August 27, 1894 (28 Stat., 509), sec. 16, act of September 8, 1916 (39 Stat., 756), and sec. 1317, act of February 24, 1919 (40 Stat., 1057).] It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for. (1) in case of a special tax, on or be-

The Assessment

A. In the following section we have included information from America's leading legal publications for your educational edification.

1. We suggest for further study in this area you might go to your nearest law library to locate these sets of books.
2. We want to make you aware of the following information, where to find it, how to use it, in order to make sure or at least help you from getting caught in those "IDIOT LEGAL ARGUMENTS"

B. Exhibit H 1 of 7 from CCH (Commerce Clearing House) 2002 section 37,506 method of Assessment which is section 6203 of the IRC of 1986.

1. Read section, 37,506 and 37,511 which is the regulation for 37,506.
2. We know that sometimes it gets hard to stay motivated about the details but you need to also read the "HISTORICAL COMMENT" section.
3. The "HISTORICAL COMMENT" section is important in tracing back sections of the code to find out what that section actually pertains to.

C. Exhibit H 2 of 7 at the top of the page we see the official CCH explanation of 6203.

1. .01 Synopsis-Assessment under code-Under the Code, the assessment is made by recording the taxpayer's name, address, and tax liability. The date of Assessment is the date the summary record is signed by an assessment officer. Upon the taxpayer's request, a copy of the record of the assessment will be furnished.
2. The assessment is made by recording taxpayer's:

Name

Address

Tax Liability

Date of Assessment

Summary Record is to be signed by Assessment Officer

The Signed Assessment is to be provided when asked for.

3. Address: Is your zip code in a Federal Territory such as Washington D.C. Are there any Federal Properties located in your zip code area? Are you a corporate Federal Officer? Have you ever filled out and signed a Form 637? Are you involved in a Federal Regulated Industry?

4. TAX LIABILITY: Have you received a CP-504 or a CP-518? Then did you send a FOIA for a Form 813, 813B, Non-Master File (see the NMF issue)? How can they have an established liability against you if they haven't done these procedures?

5. DATE OF ASSESSMENT: Where is that original assessment? For some reason it seems like they can not produce it.

a. They will produce a 006 RACS report, which according to the GAO is one step above toilet paper.

b. Sometimes they will produce a Form 4340 with not one document to support it.

c. You might even get a 5600 Form, which is the Form they use when they spin the wheel and throw the dart. We haven't seen one yet that makes any sense.

6. Lets not forget the Non-Master file Assessment voucher which we keep asking for. They never are able to produce one, much less one signed by a qualified Assessment officer.

D. Exhibit H (2 of 8) at the top of the 1st column, we see .10 "the alleged slight procedural violations by the IRS were insufficient to invalidate the assessment or to rebut the presumption that the IRS's activities had been conducted properly."

1. This is almost exactly what we teach. Only what most people do not or cannot understand is that the first letter you receive from the IRS is the start of your trial.

a. If you do not rebut with documented facts you are going to be behind the eight ball.

b. If you think you are going to bring all this information into the actual courtroom and win your case then you have a lot to learn.

E. Exhibit H, 4 of 8 top of left column, first full paragraph here the people, "Failed to challenge the assessment in any manner."

1. Make sure you read this section with your highlighter and learn what they are saying.

2. If you fail to challenge the proposed assessment you have lost.

3. If you fail to "OBJECT" you have lost.

F. Exhibit H (4 of 7) bottom right column .24: If you notice almost every case you read is decided in favor of the government. But here item .24 computer printouts if you read all of .24 this is one they lost. You should read all of .24 to see why they lost.

1. The IRS will provide any paperwork they can scrounge up and try to get the court recognize it as factual evidence but at .24 they were really stretching it.

G. Exhibit H (5 of 7) at .25 Form 23-C: We suggest you study this whole page as it concerns the Form 23-C and 4340 Form which they try to pawn off as a 23-C.

1. The Form 4340 must be accompanied by supporting documents. Which they never provide.

H. If you have read the entire exhibit H you need to go through and reread it again picking out and writing down the most important points.

1. "Individual failed to rebut the presumption of correctness of tax assessment," is the main thrust of Exhibit H.

- a. We have many people contacting us who have spent thousands on different programs, filed all kinds of paperwork but none of this rebutted the IRS presumptions.

- b. We have only found a few people that actually know how to rebut an IRS presumption to which we cannot guarantee this will always work.

- c. Why, because neither we nor anyone else can guarantee this when you have supposedly intelligent Federal Judges saying, "even though this assessment is written on used toilet paper with no supporting documents we are going to accept it as valid,"

d. Some people will put their tail between their legs and walk away, but there are those few who will go tell hundreds or thousands of others about this, "great American rip off."

I. We are planning to do a complete issue about rebutting presumptions

J. Exhibit I (5) from a set of books on the Law of Federal Income Taxation found in many law libraries to which we included these four pages for your education to make you aware of these books and what you might expect to find when you read them.

K. Exhibit I (2 of 4) center of the page General: Overview: Assessment Defined: "Form 4340, certificate of Assessments and payments is generally held to establish the fact of assessment. Indeed, production of a Form 4340 is presumptive proof of a valid assessment." What a bogus statement.

1. If you notice they try to prove their reasoning for this bogus statement using various court cases NOT what the law actually says and which is supported by IRS manuals and handbooks which for the most part they don't want us to have or share with others.

2. We know a lot of people who get caught up in the case law trap instead of using the actual law and what the legislative history of that law actually pertains to.

a. Instead of arguing the actual law the law schools teach these want to be lawyers to spend hundreds of hours looking up case law rather than looking up the actual law and tracing it's Legislative history.

b. We see people chasing case law like a dog chasing its tail getting too dizzy to know it is not going anywhere.

c. If you should catch your tail what are you going to do with it?

L. Exhibit J, American Jurisprudence second edition volume 34: This is a set of green books found in any good law library which we refer to often and even have purchased our own set to have them readily available.

M. Exhibit J (2 of 4) read first column and if you notice at the bottom of the page refers you to the CFR code sections and Rev. Proc's.

1. Read this exhibit for yourself and as you see you can use this exhibit in your favor.

N. Go back to Exhibit I (2 of 4) where the arrow is and as you read all these exhibits REMEMBER A CERTIFICATE OF ASSESSMENT is not the same as a CERTIFICATE OF ASSESSMENT AND PAYMENTS.

1. As you see, CERTIFICATE OF ASSESSMENT (form 23-C) stems out of section 6203. The CERTIFICATE OF ASSESSMENT AND PAYMENTS (form 4340) is what the IRS phony's up to replace the form 23-C.
2. The IRS also creates a 5600 form to replace the Form 5734.
3. Why don't they just use the forms they are supposed to use? The IRS should stop lying and telling us half-truths.
4. The IRS keeps lying to the people to the congress, to the courts, to the GAO, to the President and then they get all upset when they get caught. They even lie to each other.

O. Exhibit K (1 of 1) from I.R. Manual 3.17.63.14.4 page 86, 10-01-1999: Read this entire page.

1. At the top of the page at (2) The Assessment certificate is the "legal" document that permits collection activity.
2. The Assessment Certificate is the 23-C not the 4340.
3. In this same section they refer to Form 2162 which if you go to Exhibit M, 1 of 2, IRS published product catalog then turn over to Exhibit M, 2 of 2 where is Form 2162?
4. Exhibit K, 1 of 1 is a 1999 version and Exhibit M is also a 1997 version. So where is the 2162 and as you will see later in this Dispatch when we ask for a Form 2162 through FOIA they will say they sent it but they keep for getting to put it in the envelope for some reason.

P. Exhibit L (1 of 3), (2 of 3), and (3 of 3) go discuss the tax classes and again where is the form 2162?

1. Notice the seven tax classes enumerated in exhibit L.
Where is tax class 6?
2. Refer to our March NMF issue of the Dispatch concerning tax class 6.

3. We do not want the summary record of Assessments rather we want the actual ASSESSMENT CERTIFICATE itself and if they would just do that it would make everyone's life more enjoyable.

Q. Exhibit N (1 of 2) Department of Treasury IRM 5300. Turn over one page to page (2 of 2) and go to 5311 Assessment Authority and 5312 method and time of Assessment, read and learn what constitutes a valid assessment.

1. Unless we do know how to read it says very clearly FORM 23-C ASSESSMENT CERTIFICATE, TRUE OR FALSE?

a. It does not say Form 4340, 006 RACS or Form 2162, True or false?

b. We suggest you order item #162 from our literature list and you will have their entire manual concerning Revenue, Returns and Accounts Processing "plus" SC and MCC Accounting and Data Control "plus" Accounting Manual.

R. IMPORTANT: Read the 1998 Tax Reform and Restricting Act which says that IRS manuals must be followed and recognized by them. They can no longer get away with or do what they have been doing to people.

1. Go to Exhibit I (3 of 4) at the top of the page and read at the arrow, "since the Internal Revenue Manual is not law, any alleged failure to adhere to its provisions will not necessarily result in an invalid assessment," just reverse this statement!

2. The 1998 TRRA turned their little world, "UPSIDE DOWN" with section 1203. Which they do not like to acknowledge.

3. We just need your help in getting people weaned off those "IDIOT LEGAL ARGUMENTS" and show them what they can do by simply following administrative procedures.

4. There is going to be a whole lot of new case law created over the next few years so we need to get this information out to others.

5. NO 23-C = NO LEGAL ASSESSMENT!

J.R. Forrest, 76 TCM 677, Dec. 52,915(M), TC Memo. 1998-369.

A taxpayer's pro se arguments challenging the constitutionality of the federal income tax in its application to earned income were rejected and he was held liable for the taxes and penalties determined by the IRS. The IRS's use of third-party information returns derived from the taxpayer's former employers and accountants to determine the taxpayer's deficiencies was proper.

K.W. Kinkade, 77 TCM 2077, Dec. 53,401(M), TC Memo. 1999-180.

.22 Signature required.—To be valid, an assessment must be signed by the designated assessment officer and the date of the assessment is the date of signing. There was no evidence to show that an assessment was properly signed, and the Commissioner's motion for summary judgment could not be granted.

D. Boyd, Jr., DC, 77-2 USTC ¶ 9651, 439 FSupp 907.

.24 Tax year terminated.—Code Sec. 6861, not Code Sec. 6201, provides the assessment au-

thority when a tax year is terminated prior to its conclusion under Sec. 6851. Because Sec. 6861, unlike Sec. 6201, mentions deficiency notices, the Commissioner must issue one when he terminates the year.

J. Laing, S.Ct., 76-1 USTC ¶ 9164, 423 US 161; *E. Hall*, S.Ct., 76-1 USTC ¶ 9164, 423 US 161.

.30 Variance between assessment certificate and notice of deficiency.—Where the amount of the tax liability was specified in the assessment certificate, which was not disputed, and the subsequent statutory notice of deficiency stated a lesser amount, the latter did not have the effect of changing the prior assessment.

Clarkson, DC, 55-1 USTC ¶ 9268.

.90 Prior law.—

C.E. Irving, CA-2, 73-2 USTC ¶ 9581, 479 F2d 20.

J.C. Johnson, DC, 74-1 USTC ¶ 9321.

Rev. Rul. 66-270, 1966-2 CB 106.

Rev. Rul. 71-310, 1971-2 CB 169.

[¶ 37,505] ESTABLISHMENT BY REGULATIONS OF MODE OR TIME OF ASSESSMENT

86 Code Sec. 6202 [1986 Code]. If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary may establish the same by regulations.

[¶ 37,506] METHOD OF ASSESSMENT

86 Code Sec. 6203 [1986 Code]. 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 a request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

.01 Amended by P.L. 94-455 (Deadwood Act).

.20 Committee Reports on 1954 Code Sec. 6203 were reproduced at 564 CCH ¶ 5306.20.

● Regulations

[¶ 37,511] § 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. [Reg. § 301.6203-1.]

.01 Historical Comment: Proposed 12/11/54. Adopted 12/31/54 by T.D. 6119. Amended 11/10/59 by T.D. 6425 and 12/27/61 by T.D. 6585.

2002(15) CCH—Standard Federal Tax Reports

Reg. § 301.6203-1 ¶ 37,511

Exhibit H 2 of 7

[¶ 37,514]

How Assessment Is Made

● ● CCH Explanation

.01 Synopsis - assessment under Code.—Under the Code, the assessment is made by recording the taxpayer's name, address and tax liability. The date of assessment is the date the summary record is signed by an assessment officer. Upon the taxpayer's request, a copy of the record of the assessment will be furnished. See Reg. § 301.6203-1.—CCH.

● ● ● Annotations by Topic

Authority to sign .....	.10	Identification of tax period .....	.40
Computer printouts .....	.24	Identification of taxpayer .....	.35
Date assessment created .....	.15	Information required for valid assessment ...	.42
Demand .....	.12	Mandamus .....	.45
Evidence .....	.23	Presumption of correctness .....	.27
Filing with the recorder of deeds .....	.28	Quiet title actions .....	.50
Form 23-C (summary record of assessments)		Receipt by taxpayer .....	.55
.....	.25	Revision of assessment .....	.20
Form 4340 .....	.26	Statute of limitations .....	.60
Freedom of Information Act requests .....	.29	Prior law .....	.90
Identification and characterization of individual assessments .....	.30		

.10 Authority to sign.—A couple's motions to strike evidence and for summary judgment stemming from their procedural challenge to tax assessments made against them were denied. The taxpayers' challenge of the authority of the assessment officer to issue the assessment certificate was rejected because the assessment officer was properly appointed by an Assistant Service Center Director in his capacity as Acting Director. Additionally, the alleged slight procedural violations by the IRS were insufficient to invalidate the assessment or to rebut the presumption that the IRS's activities had been conducted properly. Further, the taxpayers' argument that the assessment certificate was untimely because evidence which would support its timeliness had been destroyed was without merit. The assessment certificate itself verified its timeliness.

J.W. Cunningham, DC Tex., 94-1 ustrc ¶ 50,041, 165 BR 599.

.12 Demand.—No demand for payment is necessary after assessment, but if it were essential it would relate back to the day of the receipt of the assessment list.

Macatee, Inc., CA-5, 54-2 ustrc ¶ 9550, 214 F2d 717.

.15 Date assessment created.—The assessment for federal taxes came into legal existence when the assessment list was signed.

City of New York, DC, 55-2 ustrc ¶ 9566. *Aif'd* on another issue CA-2, 56-1 ustrc ¶ 9504, 233 F2d 307.

The signing of "assessment certificates", referring to "attached lists", was sufficient to constitute an assessment.

Will of Dan Angelo, (Court of Iron County, Wis.) 60-1 ustrc ¶ 9467.

A lien for taxes arose when the assessment list, which had been signed by the Acting Commissioner, was received in the office of the Collector.

Milwaukee Crate & Lumber Co., DC, 62-2 ustrc ¶ 9832.

The taxpayer's filing of delinquent returns and execution of the waiver of restriction on assessment and collection of tax did not constitute an assessment of his taxes. The date of the assessment was the date the summary record was signed by the assessment officer certifying that all assessments relating to the taxpayer were set forth therein.

J.T. O'Leary, DC, 72-1 ustrc ¶ 9287.

The date on which tax liability was considered to be assessed for bankruptcy purposes was not the date a notice of deficiency was sent, but was the date that certain additional administrative steps were completed. Since the additional steps were taken within the 240-day period prior to the filing of a bankruptcy petition, the tax liability was nondischargeable, as were the penalties and interest related to that liability. The assessment date under the tax code was also held to be the assessment date under bankruptcy law.

W.E. Hartman, DC Kan., 90-1 ustrc ¶ 50,163.

A bankruptcy court erred in finding that a debtor's income tax liabilities were dischargeable. A formal assessment did not occur when the IRS sent the taxpayer a notice of proposed changes to his tax return for the year at issue. He had the opportunity to agree to the changes and consent to an immediate assessment but failed to respond to the notice. The date of the IRS's second notice constituted the actual date of assessment and was within 240 days of the filing date of the taxpayer's bankruptcy petition.

G.A. Schweizer, DC Ill., 96-2 ustrc ¶ 50,545.

Tax deficiencies were assessed through the IRS's issuance of its Certificates of Assessment within the 240-day period before a debtor filed his

bankruptcy petition. Since the deficiencies were assessed within the 240-day period, they were not dischargeable debts. The debtor's argument that the taxes were assessed outside of the 240-day window when the Tax Court entered its decisions determining the amount of his tax deficiencies was rejected. The Tax Court's decisions were not "assessments."

R.C. Hardie, DC Tex., 97-2 USTC ¶ 50,883, 204 BR 944.

20 Revision of assessment.—A seizure of a taxpayer's property was proper despite a revision of the assessment certificate that recorded his tax deficiency. The certificate had been revised to reflect a clerical error in estate and gift taxes and did not affect his income taxes.

J. Heck, CA-9, 75-1 USTC ¶ 9448.

23 Evidence.—The evidence showed that assessments had been made and that the taxpayer owed deficiencies. His general denial of liability was insufficient to prevent summary judgment against him.

E.G. Partin, DC, 73-2 USTC ¶ 9605.

The taxpayer, having been assessed for delinquent taxes as a person responsible for the payment of corporate tax liabilities, was liable for a 100 percent penalty. The assessment was validly made and the taxpayer had been provided with the pertinent parts of the record of the assessment, setting forth the taxpayer's name, the date of assessment, the character of the liability assessed, the taxable period and the amounts assessed.

J.A. Chila, CA-11, 89-1 USTC ¶ 9299, 871 F2d 1015. Cert. denied, 10/2/89.

A taxpayer's motion for summary judgment in an action to void a levy and lien the IRS served upon his former employer and a county court clerk was denied. The IRS did not fail to mail a deficiency notice to the taxpayer's last known address, make an adequate and timely assessment of the tax due, and issue a notice of assessment and demand for payment prior to issuing the levy and lien. The "Summary Records of Assessments" and "Certificate of Assessments and Payments," which supplied individual information on the taxpayer's tax liabilities, payments and notices sent to him constituted a proper assessment.

R. Walker, DC Pa., 90-2 USTC ¶ 50,372.

The IRS presented sufficient evidence to establish that its assessment of tax was timely. The IRS introduced a "Certificate of Assessments and Payments" and Form 4303, "Transcript of Account," covering the tax year at issue. These documents, together with the testimony of an IRS examiner regarding IRS procedure and interpretation of documents, constituted prima facie evidence of a timely assessment.

V. Fulgoni, ClsCt, 91-1 USTC ¶ 50,256, 23 ClsCt 119.

Production by the IRS of evidence establishing that demand for payment of assessments was made, as well as the amounts owed, was sufficient to reject taxpayer's arguments to the contrary.

R.G. Campbell, DC Mich., 91-1 USTC ¶ 50,106. Aff'd, CA-6 (unpublished opinion 5/18/92).

Similarly.

H. Lisle, DC Calif., 92-1 USTC ¶ 50,286.

There was sufficient evidence to establish that the IRS had made a proper assessment against the taxpayer and that notice of assessment and demand for payment had been sent.

W. Simpson, DC Fla., 91-2 USTC ¶ 50,504.

Similarly.

H.H. McKinley, DC Ohio, 92-2 USTC ¶ 50,509.

J. Hand, DC Ill., 92-2 USTC ¶ 50,605. Vac'd and rem'd, CA-7 (unpublished opinion 4/6/94).

J.R. Tweedy, DC Ida., 93-1 USTC ¶ 50,024. Aff'd, CA-9 (unpublished opinion 6/7/94).

M.D. Smalley, DC Tenn., 93-1 USTC ¶ 50,111.

R.B. Hartnett, DC Kan., 93-1 USTC ¶ 50,121. Aff'd, CA-10 (unpublished opinion 6/24/93).

L. Elias, DC Calif., 93-1 USTC ¶ 50,131. Aff'd, CA-9 (unpublished opinion 2/11/94).

J. Shepard, CA-9, 95-2 USTC ¶ 50,413.

IBEW Local Union No. 640, DC Ariz., 95-2 USTC ¶ 50,601.

R.M. Odd, CA-9 (unpublished opinion), 96-2 USTC ¶ 50,497.

R.L. Bodwell, DC Calif., 96-2 USTC ¶ 50,592. Aff'd, CA-9 (unpublished opinion), 98-1 USTC ¶ 50,172.

J.E. Klimek, DC Pa., 97-1 USTC ¶ 50,281.

We Care Comm. Economic Develop. Corp., Inc., BC-DC La., 97-2 USTC ¶ 50,766.

R.F. Morgan, BC-DC Fla., 97-2 USTC ¶ 50,739, 213 BR 609.

R. Urias, DC Calif., 99-2 USTC ¶ 50,859. Motion for reconsideration denied, 99-2 USTC ¶ 50,902. Aff'd, on another issue, CA-9 (unpublished opinion), 2000-2 USTC ¶ 50,828.

W. Estabrook, DC Tex., 99-2 USTC ¶ 50,922, 78 FSupp2d 558.

Tax assessments by the IRS against a married couple were valid. The IRS sent a summary record to the taxpayers, filed several tax liens and, subsequently, sent a certificate of assessments. The language in the certificate of assessments sent to the taxpayers met the requirements of Reg. § 301.6203-1, and the taxpayers were not entitled to the original documents.

B.M. Gentry, CA-6, 92-1 USTC ¶ 50,225, 962 F2d 555.

An individual who failed to notify the IRS of a change of address was not entitled to the removal of tax liens that resulted from deficiencies assessed because of his failure to file returns. The IRS mailed the deficiency notices to the taxpayer's last known address and otherwise proceeded properly in assessing the deficiencies.

L.C. Tupper, DC Wis., 93-1 USTC ¶ 50,133.

The IRS complied with the requirements of Code Sec. 6203 by providing a record of assessment to an individual. The individual, who failed to identify the information he believed was withheld, was incorrect in his argument that a record of assessment should include the production of "supporting lists" relating to tax assessments made against him.

Reg. § 301.6203-1 ¶ 37,514.23

J.A. Bentley, DC Nev., 93-1 USTC ¶ 50,252.

Certificates of Assessment and Payments submitted by the IRS established that notices and assessments were timely and properly made since the delinquent taxpayers failed to challenge the assessments in any manner.

F.C. Geissler, DC Ida., 94-1 USTC ¶ 50,060.

Similarly:

H.C. Jones, DC N.J., 95-1 USTC ¶ 50,190, 877 F.Supp. 907. *Aff'd*, CA-3, 96-1 USTC ¶ 50,056.

J.A. Tharp, DC Fla., 95-1 USTC ¶ 50,206, 883 F.Supp. 652.

The IRS complied with the procedural requirements necessary to issue tax liens and levies, and, therefore, its collection activities could not be enjoined. The IRS properly determined the tax deficiency and assessed the taxes subject to the liens.

L.M. Smith, Jr., DC Nev., 94-1 USTC ¶ 50,027.

The taxpayers were provided with properly executed Certificates of Assessment. Their introduction of documents from the Social Security Administration was not relevant to whether the IRS, a separate agency, made lawful assessments. Neither did tax transcripts refute the information reflected in the Certificate of Assessments and Payments. Finally, the taxpayer's expert did not deny the assessments listed in the certificate were actually made. The taxpayer, thus, failed to raise a factual issue regarding the assessment, and the dismissal of the claim for lack of jurisdiction was upheld.

C.R. Hefti, CA-7, 93-2 USTC ¶ 50,591, 8 F.3d 1169.

An individual was not entitled to injunctive relief from the government's tax collection efforts because he did not show that there were no circumstances under which the government would ultimately prevail. Although the individual claimed that the government did not provide copies of the assessments or notices and demands for payments, such items were exhibits to court documents he filed.

G. Weingardt, DC Nev., 94-1 USTC ¶ 50,197.

The IRS was granted summary judgment in assessment and levy proceedings. The summary record of assessment was properly signed by the assessment officer, and no evidence was offered to support the claim that the contents of the notices sent to the taxpayer were deficient. The IRS complied with collection and notice procedures, since notices were sent to the taxpayer's last known address on four different occasions.

J.R. Pursifull, DC Ohio, 93-2 USTC ¶ 50,584. *Aff'd* CA-6 (unpublished opinion 3/18/94).

The IRS provided Certificates of Assessments and Payments that were not shown by the taxpayer to be defective.

J. Mathewson, DC Fla., 93-2 USTC ¶ 50,595, 839 F.Supp. 858.

A married couple failed to show that the government did not make tax assessments or demand payment prior to levying their property. The tax-

payers presented only a signed affidavit stating their claim. The Certificate of Assessments and Payments and a number of signed Assessment Certificates established that the IRS made assessments for the tax years at issue. Further, the IRS was not required to send the taxpayers copies of the assessments, because they did not show that they had requested the assessments. The Certificate and a copy of the Final Notice of Intent to Levy established that the demand for payment was made.

R.B. Brooks, DC Calif., 94-2 USTC ¶ 50,359.

The government was not entitled to summary judgment that federal tax liens attached to property transferred by married taxpayers to a family trust because genuine issues of material fact existed as to whether the statutory requirements for assessment, notice and demand for payment were met for three of the tax years at issue. The government failed to produce Forms 23C (summary records of assessment) for three of the tax years; however, assessments for four other tax years were timely.

G.T. Kattar, DC N.H., 99-2 USTC ¶ 50,834.

A drug smuggler's plea agreement with respect to criminal tax evasion charges did not bar the subsequent assessment of his civil tax liabilities because the U.S. Attorney who negotiated the agreement did not have the authority to compromise civil tax liability. Further, the taxpayer's jeopardy assessments and deficiency notices were not improperly based on grand jury information that was presented in connection with his criminal proceedings. Rather, the IRS primarily used material that had been placed in the public record without objection by the taxpayer.

J.L. Harvey, 78 TCM 60, Dec. 53,452(M), TC Memo. 1999-229.

An individual was not entitled to a refund of overpayments that the IRS credited to his tax deficiencies from other tax years. His assessments, as shown by properly admitted IRS certified transcripts, were presumed correct.

A.K. Malhotra, DC Ill., 2000-1 USTC ¶ 50,404. *Aff'd*, CA-7 (unpublished opinion), 2000-2 USTC ¶ 50,867.

.24 Computer printouts.—An assessment against debtors in bankruptcy was invalid because the government failed to prove that the assessment was made within 240 days of the debtors' bankruptcy petition. The government did not produce either the required summary record of assessment or a Certificate of Assessments and Payments, but instead offered a computer printout titled "1040 for 1988." This title was handwritten in pencil. Highlighted under "Posted Transactions Section" was the date "010692," indicating when the transaction was posted, and the amount "209," indicating the principal amount of the additional tax owed. Handwritten in pencil next to the highlighted portion of the exhibit was the phrase "Additional Tax Assessment." The computer printout was unsigned and contained no place for a signature. The government also offered the unsubstantiated testimony

of a revenue officer that the printout contained "a transaction code which identified an additional tax assessment. The printout and testimony, absent a summary record or certificate, were not sufficient evidence of an assessment.

D.T. Hilton, DC Ala., 93-2 USTC ¶ 50,552.

25 Form 23-C (summary record of assessments).—The government was not required to produce a copy of Form 23-C in order to prove that it made an assessment against the taxpayer.

J. Dixon, DC Ala., 87-2 USTC ¶ 9485, 672 F.Supp. 503. Aff'd, CA-11 (unpublished opinion 5/26/88).

Similarly.

J. McMahan, 82 TCM 320, Dec. 54,424(M), TC Memo. 2001-191.

In this action to recover certain tax assessments, the IRS established a prima facie case in support of taxpayer liability by introducing into evidence certified copies of the Certificate of Assessment and Payments. The Certificate of Assessment and Payments, which can substitute for Form 23C, the summary record of assessment, contains all of the information required by the applicable regulation. Since the taxpayers failed to prove that the assessment was erroneous, summary judgment for the IRS was granted.

M. Sato, DC Ill., 90-1 USTC ¶ 50,278.

An IRS assessment was valid although the government did not produce the relevant Form 23-Cs but merely produced Certificates of Assessment, which are presumed to be accurate.

A.P. Tranakos, DC Ga., 91-2 USTC ¶ 50,532, 778 F.Supp. 1220.

Similarly.

P. Forma, DC N.Y., 93-1 USTC ¶ 50,076. Vac'd and rem'd on another issue, CA-2, 95-1 USTC ¶ 50,012, 42 F3d 759.

Air Line Pilots Ass'n, Intl., DC Wash., 93-1 USTC ¶ 50,179.

T.A. Boch, BC-DC Pa., 93-1 USTC ¶ 50,197, 154 BR 647.

J.L. Ball, CA-7 (unpublished opinion), 95-1 USTC ¶ 50,217.

D.W. Hirschi, CA-9 (unpublished opinion), 97-1 USTC ¶ 50,211.

J.A. Viscuglia, BC-DC, 94-2 USTC ¶ 50,332.

R.J. Rosemiller, BC-DC N.J., 95-2 USTC ¶ 50,546.

C. Miklaski, DC Mich., 98-1 USTC ¶ 50,385.

G.M. Crisp, DC Calif., 99-1 USTC ¶ 50,330. Aff'd, CA-9 (unpublished opinion), 2000-2 USTC ¶ 50,765.

J. Letscher, DC N.Y., 99-2 USTC ¶ 50,947.

The government properly assessed the taxpayer's tax liability. The IRS submitted several Forms 4340, Certificates of Assessments and Payments, to the district court. It did not have to submit an actual Form 23C, Summary Record of Assessment. Also, the Certificates of Assessments and Payments constituted notice of assessment and demand for payment.

M.J. Geiselman, CA-1, 92-1 USTC ¶ 50,200, 961 F2d 1.

Tax liens against the property of married individuals were not procedurally defective because of

the IRS's alleged failure to provide them with a summary record of assessment (Form 23-C). The IRS provided the taxpayers with all of the information prescribed under regulations interpreting Code Sec. 6203 as requiring the IRS to provide a taxpayer who requests a copy of the record of assessment with documentation showing the taxpayer's name, the date of assessment, the character of the liability assessed, the taxable period and the amount assessed. Since the IRS provided the taxpayers with all such information, the liens were not procedurally defective.

I. Koff, CA-9, 93-2 USTC ¶ 50,520.

An assessment made 90 days after the issuance of a notice of deficiency was proper. The taxpayer's objection that the assessment was improper, since no officer signed the summary record of assessment, was rejected because the Certificate of Assessments and Payments identified the individual taxpayer and its submission was sufficient proof that the summary record of assessments was properly signed.

J.A. Mayo, DC Va., 93-1 USTC ¶ 50,103. Aff'd, CA-1 (unpublished opinion 8/4/93).

An assessment was properly made by an IRS assessment officer because the officer signed the summary record. Only the summary record, not the copy of a Form 4340, Certificate of Assessments and Payment, had to be signed by the officer.

P.B. Farr, DC Ida., 96-1 USTC ¶ 50,226. Aff'd, CA-9 (unpublished opinion), 98-1 USTC ¶ 50,159.

26 Form 4340.—The IRS's assessment of unpaid taxes against an individual was valid and enforceable because it had offered Forms 4340 to validate the assessment. In addition, each Form 4340 contained a "23C date," which indicated that a signed summary record had been prepared in making the assessment. The individual's unsupported affidavit did not rebut the presumed validity of the assessment.

G.S. Sitka, DC Conn., 94-1 USTC ¶ 50,283.

Similarly.

A.H. Schaeffer, DC Colo., 99-2 USTC ¶ 50,792.

G.M. Crisp, DC Calif., 99-1 USTC ¶ 50,330. Aff'd, CA-9 (unpublished opinion), 2000-2 USTC ¶ 50,765.

R.B. Dyke, DC Tex., 98-2 USTC ¶ 50,758.

A married couple whose home was seized for back taxes raised a genuine issue of material fact concerning the procedural validity of tax liens. In district court proceedings, the IRS had improperly relied on Form 4340 to prove that the taxpayers had received a copy of the assessment. Although Form 4340 provides at least presumptive evidence that a tax has been validly assessed, it could not be relied upon to prove that the taxpayers had been provided with a copy of the assessment because no entry on the form contains any information in that regard. In addition, some of the Forms 4340 relied upon by the government in this case appeared to be defective. One, for example, was missing the date on which the actual assessment was made.

Reg. § 301.6203-1 ¶ 37,514.26

2002(15) CCH—Standard Federal Tax Reports

M.R. Huff, CA-9, 93-2 USTC ¶ 50,633. Cert. denied, 6/20/94.

The government's failure to timely provide a copy of Form 4340, Certificate of Assessments and Payment, to an individual who filed a quiet title suit for the removal of tax liens resulted in an incomplete response to her request for information. The government's argument that the taxpayer suffered no material harm since the requested information was provided during the course of litigation was rejected since the taxpayer could not decipher documents sent by the IRS without a copy of Form 4340. Accordingly, the IRS was ordered to pay the taxpayer's cost of litigating the claim.

P.B. Farr, DC Ida., 96-1 USTC ¶ 50,226, 926 FSupp 147, Aff'd on another issue, CA-9 (unpublished opinion), 98-1 USTC ¶ 50,159.

A taxpayer failed to show that the IRS's Form 4340 (Certificate of Assessments and Payments), was invalid simply because the information on the form was computer generated, rather than handwritten or typed as provided in the Internal Revenue Manual. Further, the taxpayer failed to meet his burden of proving that the amounts set forth on the form were incorrect.

R.P. Upton, DC Conn., 97-1 USTC ¶ 50,366.

Taxpayers' challenge to IRS tax assessments was rejected. Forms 4340 introduced by the government constituted presumptive evidence that an assessment was properly made and that notices and demands for payment were sent to the taxpayers. Their contention that the assessments were improperly based on income and property exempt from taxation was insufficient to overcome the presumption of validity.

R.G. Powell, DC Ariz., 2001-1 USTC ¶ 50,305.

.27 Presumption of correctness.—Form 4340, Certificate of Assessments and Payments, submitted by the IRS, constituted presumptive evidence that it properly assessed taxes and sent required notices and demands for payment. Taxpayer failed to provide sufficient evidence to challenge the validity of the Form 4340.

M. Humer, DC Fla., 95-2 USTC ¶ 50,515.

C. Parker, DC Calif., 96-2 USTC ¶ 50,675. Aff'd, CA-9 (unpublished opinion), 98-1 USTC ¶ 50,239.

R.L.A. Gallagher, DC Pa., 97-2 USTC ¶ 50,712.

R.F. Morgan, BC-DC Fla., 97-2 USTC ¶ 50,739.

H.E. Willley, DC Ore., 97-2 USTC ¶ 50,825.

A. DiGiulio, DC N.Y., 97-2 USTC ¶ 50,987.

J.W. Noble, DC Mich., 98-2 USTC ¶ 50,642. Appeal dismissed, CA-6 (unpublished opinion), 99-1 USTC ¶ 50,173. Aff'd, CA-6 (unpublished opinion), 2001-1 USTC ¶ 50,226.

D.L. Long, DC Pa., 99-1 USTC ¶ 50,399. Aff'd, per curiam, CA-3 (unpublished opinion), 2000-1 USTC ¶ 50,497.

R.I. Reamer, DC Md., 99-2 USTC ¶ 50,702. Aff'd, per curiam, CA-4 (unpublished opinion), 2000-1 USTC ¶ 50,298.

S.J. Tracy, DC Mo., 2000-2 USTC ¶ 50,708.

O. Randle, DC Calif., 2000-2 USTC ¶ 50,715. Aff'd, on another issue, CA-9 (unpublished opinion), 2001-2 USTC ¶ 50,565.

H.L. Taylor, DC S.C., 2000-2 USTC ¶ 50,788. Aff'd, per curiam, CA-4 (unpublished opinion), 2001-1 USTC ¶ 50,343.

M.K. Turner, DC Hawaii, 2000-2 USTC ¶ 50,815.

A. Bruno, DC Ill., 2000-2 USTC ¶ 50,831.

R.G. Powell, DC Ariz., 2001-1 USTC ¶ 50,305.

J.M. Boyce, Jr., DC Calif., 2001-1 USTC ¶ 50,368.

S.A. Tanner, CA-9 (unpublished opinion), 2001-1 USTC ¶ 50,444, aff'g an unreported District Court decision.

M.J. Rofick, DC Mich., 2001-1 USTC ¶ 50,451.

C.W. Stock, DC Ida., 2001-2 USTC ¶ 50,506.

The mere fact that Form 4340 was dated five years after the assessment allegedly was made did not render it unreliable.

D.L. Gongaware, DC Pa., 98-1 USTC ¶ 50,213. Aff'd, CA-3 (unpublished opinion), 98-2 USTC ¶ 50,665.

R.D. Larsen, BC-DC Wyo., 98-2 USTC ¶ 50,704.

A delinquent taxpayer failed to present evidence refuting the accuracy of IRS assessments made against him. Therefore, he did not meet his burden of proving that the assessments were arbitrary or erroneous.

T.E. O'Day, DC Fla., 97-1 USTC ¶ 50,250.

Similarly.

J.G. O'Callaghan, DC N.Y., 96-2 USTC ¶ 50,684.

E.S. Dubey, DC Calif., 97-1 USTC ¶ 50,392.

G.D. Bell, DC Calif., 97-1 USTC ¶ 50,426.

C.A. Bratcher, CA-7 (unpublished opinion), 97-2 USTC ¶ 50,495.

Because a tax protestor did not avail himself of the option of petitioning the Tax Court for a redetermination of the IRS's deficiency assessment with respect to certain years, it was determined that the IRS properly assessed the amount of deficiency as reflected on the Certificates of Assessment and Payments. A Certificate of Assessments and Payments is presumptive proof of the validity of the assessment. The assessment with respect to the tax protestor was made in accordance with all statutory and regulatory requirements.

I.A. Schiff, CA-2, 90-2 USTC ¶ 50,591, 919 F2d 830.

The IRS was granted summary judgment in a pro se taxpayer's action challenging tax liens because the computer-generated certified Certificates of Assessments and Payments submitted by the IRS were self-authenticating presumptive proof of valid assessment, admissible under either the business record or public record exception to the hearsay rule. Each certificate provided identification of the taxpayer, the character of the liability assessed, the relevant taxable period and the amount of the assessment.

P.A. Adam, DC Ill., 92-1 USTC ¶ 50,121.

A cross-motion for summary judgment was granted to the United States because it properly assessed an individual's tax liability, interest and penalties. The claim that the IRS did not make a

proper assessment since it failed to comply with statutory and regulatory requirements was rejected. The Certificate of Assessments and Payments the IRS provided was proof of a valid assessment since it identified the taxpayer, character of the liability, the tax period, and the date and amount of the assessment.

B.J. Smith, DC Ala., 92-1 USTC ¶ 50,202.

The IRS was not entitled to summary judgment of a taxpayer's pro se action to quiet title to property because the IRS failed to show that it followed the mandated procedures for making a valid assessment and levy on the taxpayer's property. Although the taxpayer served discovery requests on the IRS to obtain copies of signed summary records of assessments, Form 23C, evidencing the date and validity of the assessments and copies of the notice and demands, the IRS had not complied with the requests at the time it filed its summary judgment motion. Moreover, the presumption that IRS Certificates of Assessments and Payments were valid was sufficiently rebutted by the taxpayer who submitted an IRS memorandum indicating that Form 23C was unsigned and was otherwise invalid under current regulations.

J.R. Pursifull, DC Ohio, 92-2 USTC ¶ 50,346. Aff'd, CA-6 (unpublished opinion 3/18/94).

An individual's motion to strike Certificates of Assessments and Payments from the record was denied because there was adequate support for the presumption that they were correct. Although the individual maintained that an inaccuracy in the Certificates as to his wife prevented them from constituting presumptive proof of a valid assessment against him, there was no indication that the government failed to follow correct assessment procedures, and the husband admitted that he received deficiency notices and a demand for payment.

R.W. Yoak, DC Ky., 94-2 USTC ¶ 50,414.

Certificates of Assessment and Payments (Form 4340) established that assessments were made against a married couple and that notice and demand for payment was sent. The taxpayers failed to rebut the presumptive correctness of the assessment. Vague and general references did not show that various documents submitted by the taxpayers related to expenses or other claimed deductions.

S.A. Flake, DC Ariz., 95-2 USTC ¶ 50,588. Motion for reconsideration denied, 96-1 USTC ¶ 50,073.

A supplemental assessment made by the IRS was valid as evidenced by Form 4030, Certificate of Assessments and Payments. The form was an official document that established that the IRS actually made a second assessment and the taxpayer failed to produce any evidence to the contrary.

T.A. Johnson, DC Conn., 96-1 USTC ¶ 50,256.

The IRS was entitled to invoke the presumption of correctness regarding its original proof of claim against a debtor in bankruptcy for delinquent taxes, interest and penalties because the

debtor's own income statements showed that it received substantial income during the years in question. Furthermore, the IRS's claim did not lose its presumptive correctness merely because it voluntarily reduced its claim prior to trial.

Pacific-Atlantic Trading Co., BC-DC Calif. (unpublished opinion), 96-1 USTC ¶ 50,303.

There was no issue of material fact regarding the amount owed to the IRS by a bankrupt couple because the IRS offered both its proof of claim in the bankruptcy case and a certificate of assessment in support of the amount they owed.

D.D. Jones, BC-DC Ida., 96-2 USTC ¶ 50,412. Vac'd and rem'd on another issue, BAP-9, 97-1 USTC ¶ 50,429.

Since an individual failed to rebut the presumption of correctness of tax assessments that related to tax liens against the individual's real property, the IRS was entitled to judgment as a matter of law against the individual.

V.H. McAnulty v. American Natl. Bank & Trust Co. of Chicago, DC Ill., 96-2 USTC ¶ 50,484. Motion for reconsideration granted on another issue, 96-2 USTC ¶ 50,485.

The IRS could not rely on the presumption of correctness of its assessment because it failed to present evidence linking the taxpayer to any unreported income. Although the deficiency notice for several of the tax years indicated that the government had evidence linking the taxpayer to income-producing activity, the notice itself did not constitute evidence sufficient to give rise to the presumption that the assessments were correct.

W.E. Smith, DC Ind., 96-2 USTC ¶ 50,668.

The IRS followed proper procedures when it assessed the trust fund recovery penalty against a company president and, thus, the assessments were presumptively valid. The evidence showed that the IRS provided the president with a Summary of Record of Assessments and a Form 4340, which contained the information required by Code Sec. 6203 and Reg. § 301.6203-1.

D.A. Stettler, DC Utah, 97-1 USTC ¶ 50,107. Aff'd, CA-10 (unpublished opinion), 98-1 USTC ¶ 50,136.

The presumption of correctness properly attached to the notice of deficiency issued to a physician who failed to report income from the sale of antique automobiles.

T.M. Bennett, 73 TCM 2389, Dec. 51,953(M), TC Memo. 1997-145. Aff'd, *per curiam*, CA-1 (unpublished opinion), 98-1 USTC ¶ 50,238.

An S corporation that operated as a law practice failed to rebut the presumption of correctness attached to tax assessments relating to the IRS's characterization of amounts paid to the corporation's sole shareholder as wages rather than dividends. An affidavit submitted by the corporation contained conclusory denials, did not set forth facts within the affiant's personal knowledge, and failed to produce facts that contradicted the assessments or rebutted the presumption of their correctness.

Reg. § 301.6203-1 ¶ 37,514.27

Chapter 49D

ASSESSMENT OF TAXES

Revised by
Lisa Fagan, JD

I. GENERAL

- § 49D:01 Overview.
- § 49D:02 Limitations Upon Assessment.

II. WAIVER OF RESTRICTIONS; MATHEMATICAL AND CLERICAL ERRORS

- § 49D:03 Waiver of Restrictions.
- § 49D:04 [Reserved]
- § 49D:05 Mathematical and Clerical Errors.
- § 49D:06 —Definition of Errors.

III. JEOPARDY AND TERMINATION ASSESSMENTS

- § 49D:07 Jeopardy and Termination Assessments.
- § 49D:08 Administrative and Judicial Review of Jeopardy and Termination Assessments.
- § 49D:09 Administrative and Judicial Review of Jeopardy and Termination Assessments (Legislative History).
- § 49D:10 Jeopardy Assessment Before Notice of Deficiency.
- § 49D:11 Jeopardy Assessment After Notice of Deficiency.
- § 49D:12 Jeopardy Assessment After Decision of Tax Court.
- § 49D:13 Bond or Security To Stay Collection.
- § 49D:14 Bond Before Petition to Tax Court.
- § 49D:15 Collection on Bond After Decision by Tax Court.
- § 49D:16 Stay of Sale of Seized Property Pending Court Decision.
- § 49D:17 Procedure in Case of Taxpayers Contemplating Removal or Concealment of Property To Defeat Collection of Tax.
- § 49D:18 [Reserved]
- § 49D:19 Unknown Owner of Cash.

IV. ASSESSMENT OF CERTAIN TAXPAYERS

- § 49D:20 Immediate Assessment in Case of Receivership.
- § 49D:21 [Reserved]
- § 49D:22 Special Problems as to Assessment.
- § 49D:23 Dissolved Corporations.
- § 49D:24 Deceased Taxpayers.

- § 49D:25 Affiliated Corporations.
- § 49D:26 Citizens Leaving Country.
- § 49D:27 Aliens Leaving Country.

V. OTHER CONSIDERATIONS

- § 49D:28 Effect of Abatement of Assessment.
- § 49D:29 Right To Enjoin Assessment.
- § 49D:30 Reward to Informers in Aid of Assessment and Collection.

I. GENERAL

§ 49D:01 Overview.

Assessment Defined

A tax assessment is essentially a bookkeeping notation made when the Secretary of the Treasury or his or her delegate establishes an account against the taxpayer on the tax rolls.¹ A tax assessment is made by the Service recording the taxpayer's liability on its records, known as a certificate of assessment.² Form 4340, Certificate of Assessments and Payments, is generally held to establish the fact of assessment.³ Indeed, production of a Form 4340 is presumptive proof of a valid assessment.⁴

Validity of Assessment

The Service's tax assessments are presumed to be correct and it is the taxpayer who must rebut this presumption, and only in rare cases can this presumption be overcome by destroying the assessment's foundation.⁵ In general, courts will not look behind an assessment to evaluate the proce-

[Section 49D:01]

¹ U.S. v. Toyota of Visalia, 772 F Supp 481 (ED Cal 1991).

² IRC § 6203; U.S. v. Brown, 782 F Supp 321 (ND Tex 1990).

³ Gentry v. U.S., 92-1 USTC ¶ 50,225 (CA6 1992); Geiselman v. U.S., 961 F2d 1 (CA1 1992); Rocovich v. U.S., 933 F2d 991 (CA Fed 1991); U.S. v. Chila, 871 F2d 1015 (CA11), cert den 493 US 975 (1989); U.S. v. Zolla, 724 F2d 808 (CA9 1984); U.S. v. Farris, 517 F2d 226 (CA7 1975); Hefti v. Comm., 92-1 USTC ¶ 50,192 (CD Ill 1992).

⁴ U.S. v. Chila, 871 F2d 1015 (CA11), cert den 493 US 975 (1989); U.S. v. McCallum, 970 F2d 66 (CA5 1992); Hughes v. U.S., 953 F2d 531 (CA9

1992); U.S. v. Lorson Elec. Co., Inc., 480 F2d 554 (CA2 1973); Koff v. U.S., 92-1 USTC ¶ 50,180 (ED Cal 1991); Stahl v. U.S., 92-2 USTC ¶ 50,517 (ED Mich 1992); Bliss v. U.S., 92-2 USTC ¶ 50,528 (ED Wash 1992); Smelley v. U.S., 806 F Supp 932 (ND Ala 1992).

⁵ U.S. v. Schroeder, 900 F2d 1144 (CA7 1990).

A Certificate of Assessments and Payments was found not to create a presumption of a valid Section 6672 penalty assessment where the certificate was prepared and executed after the taxpayer filed a lawsuit against the Service and after the date the statute of limitations expired. Stallard v. U.S., 806 F Supp 152 (WD Tex 1992).

ture and evidence used in making the assessment.⁶ As long as the procedures and evidence upon which the Government relies to determine the assessment have a rational foundation, the inquiry is on the merits of the tax liability, not on the Service's procedures.⁷ Since the Internal Revenue Manual is not law, any alleged failure to adhere to its provisions will not necessarily result in an invalid assessment.⁸

The date of assessment found in the certificate is also presumptively valid.⁹ This presumption places the burden on the taxpayer to demonstrate by a preponderance of the evidence that the date of assessment is incorrect.¹⁰

Limitations Upon Assessment

As a general rule, the Service may not make an assessment of taxes until:¹¹

- (1) a notice of deficiency or a "90-day letter" has been mailed to the taxpayer;¹²
- (2) the expiration of the 90-day period (or 150-day period if the notice was addressed to a person outside the United States); or
- (3) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.¹³

Summary Assessment

The Service may make an immediate assessment and collect the amount of taxes, without following deficiency procedures, in several situations.¹⁴

Supplemental Assessments

The Service is permitted to make a supplemental assessment to correct an imperfect or incomplete assessment.¹⁵

⁶ *Ruth v. U.S.*, 823 F2d 1091 (CA7 (CA2 1965); *U.S. v. Red Stripe, Inc.*, 792 F Supp 1338 (ED NY 1992).

⁷ *Curley v. U.S.*, 791 F Supp 52 (ED NY 1992).

⁸ *Curley v. U.S.*, 791 F Supp 52 (ED NY 1992).

⁹ *U.S. v. Red Stripe, Inc.*, 792 F Supp 1338 (ED NY 1992); *Brewer v. U.S.*, 764 F Supp 309 (SD NY 1991); *U.S. v. Dixon*, 672 F Supp 503 (MD Ala 1987), affd 849 F2d 1478 (CA11 1988).

¹⁰ *Schaffer v. Comm.*, 779 F2d 849 (CA2 1985); *U.S. v. Lease*, 346 F2d 696

(CA2 1965); *U.S. v. Red Stripe, Inc.*, 792 F Supp 1338 (ED NY 1992).

¹¹ See § 49D:02.

¹² See Ch 49C.

¹³ See IRC §§ 6213, 7481, 7483. See Ch 50.

¹⁴ See § 49D:02.

¹⁵ See IRC § 6204. See also *Brookhurst Inc. v. U.S.*, 931 F2d 554 (CA9 1991) (erroneous refund by supplement assessment).

Special Assessment Problems

This chapter also deals with the special problems related to assessment¹⁶ which arise with regard to dissolved corporations,¹⁷ deceased taxpayers,¹⁸ affiliated corporations,¹⁹ and citizens²⁰ and aliens²¹ leaving the country.

§ 49D:02 Limitations Upon Assessment.

Time for Filing Petition

The Service is, with certain exceptions, prohibited from assessing a deficiency, or a proceeding to collect it by restraint or court action, until it has sent the notice of deficiency to the taxpayer, thus affording the taxpayer an opportunity to have the determination reviewed by the Tax Court.²² Even after the notice has been sent these prohibitions continue to apply (with certain exceptions) until the expiration of the period during which the taxpayer may appeal to the Tax Court.²³ If an appeal is filed, they apply until the decision of the Tax Court becomes final.²⁴

Effect of Premature Assessment

The Regulations recommend that where the taxpayer has appealed to the Tax Court, he should notify the District Director to forestall a possible assessment of the deficiency.²⁵ Some courts hold that if the assessment was premature it is void and the Service is barred from making another assessment.²⁶ However, it has been held that where the Commissioner makes an assessment within the period which is allowed to taxpayers for filing a petition with the Tax Court, such assessment is not void.²⁷ It has also been held that a timely collection after this period is not illegal, so that there may be no recovery by the taxpayer of the amount voluntarily paid.²⁸

¹⁶ See § 49D:22.

¹⁷ See § 49D:23.

¹⁸ See § 49D:24.

¹⁹ See § 49D:25.

²⁰ See § 49D:26.

²¹ See § 49D:27.

[Section 49D:02]

²² Employment taxes such as Federal Insurance Contributions and withholding taxes are imposed by Subtitle C of the 1954 Code and thus are not within the prohibition against assessment without a 90-day notice as provided in IRC § 6213(a). *McAllister v. Dudley*, 148 F Supp 548 (WD Pa 1956).

²³ See IRC §§ 7481, 7483.

²⁴ IRC § 6213; Reg § 301.6213-1. *U.S. v. Merrill*, 107 F Supp 836 (SD Cal, 1952).

²⁵ Reg § 301.6213-1(c).

²⁶ *Haley v. Comm.*, 805 F Supp 834 (ED Cal 1992).

²⁷ It was held merely "premature and irregular" in *Ryan v. Alexander*, 118 F2d 744 (CCA10, 1941), and the assessment subsequently became effective when the taxpayer's appeal to the Board was dismissed.

²⁸ See *Lehigh Portland Cement Co. v. U.S.*, 30 F Supp 217 (Ct Cl. 1939).

AMERICAN JURISPRUDENCE

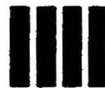
SECOND EDITION

VOLUME 34 (1991 Edition)

FEDERAL TAXATION §§ 4000-42,999

VOLUMES 33, 34, AND 34A CONTAIN A MODERN COMPREHENSIVE TEXTUAL STATEMENT OF THE FEDERAL TAX LAW. VOLUMES 33 AND 34 CONSIST OF MATERIAL FOUND IN THE 1991 EDITION OF THE TAX GUIDE PREPARED BY THE TAX EXPERTS ON THE STAFF OF THE RESEARCH INSTITUTE OF AMERICA, INC. VOLUME 34A CONSISTS OF MATERIAL DERIVED FROM THE ESTATE PLANNING & TAXATION COORDINATOR (EPTC) OF THE RESEARCH INSTITUTE OF AMERICA, INC.

1990



Lawyers Cooperative Publishing
Rochester, New York 14694

¶ 9104. **Mechanics of an assessment.** An assessment is a bookkeeping act on the part of IRS. The assessment is made when the appropriate official in the director's office (or service center) signs a summary record sheet which contains the taxpayer's name, address, the amount of the tax, the type of tax and the taxable period. The tax liability of each taxpayer is recorded and becomes, in effect, the district director's record of accounts receivable. The account is credited with payments made and any abatements of erroneous or excessive assessments. Any balance due is collectible as an underpayment.²⁴

IRS must issue a notice and demand for unpaid taxes within 60 days after the assessment is made.²⁵ (¶ 9403)

observation: The date of assessment is very important because unless it falls within the assessment period (¶ 9121 *et seq.*), the assessment is void. Also, it begins the 6-year period for collection of the tax (¶ 9416).

observation: While assessment does not terminate settlement opportunities, they become more limited. There are formal procedures for making an assessment of the tax and certain restrictions on IRS' authority to assess tax that is an unagreed deficiency in income, gift or estate taxes.

¶ 9105. **Assessment of tax shown on return.** In the usual case, the tax liability disclosed on the return is immediately assessed.²⁶ If the taxpayer attaches a statement to the return disclaiming any liability for the tax, the return will be treated as showing no tax due. In this case any assessment will be subject to the regular assessment period limitations (¶ 9122).

Where a taxpayer fails to file a return, and IRS files on his behalf,²⁷ the amount assessed is the amount shown on that return.²⁸

If there are any mathematical or clerical errors, a summary assessment may be made (¶ 9003).

¶ 9106. **Assessment of amounts paid as a tax.** Any amount "paid as a tax or in respect of a tax" may be assessed upon receipt. This includes payments made with the return (or amended return) or in the course of deficiency settlement discussions, before as well as after the mailing of the 90-day letter.²⁹

¶ 9107. **Assessment of advance payments.** An advance payment of a disputed deficiency made after the issuance of a 90-day letter will be assessed immediately. If the taxpayer designates

part of the payment as tax and part as interest, the assessment will be made in accordance with that designation.³⁰

Advance payments made before the issuance of a 90-day letter may be assessed if IRS deems it to be proper.³¹ These payments are treated as follows:³²

. . . If the district director can ascertain the amount of the deficiency, the advance payment may be assessed immediately in accordance with the taxpayer's designation as to tax and interest.

. . . If the district director can't ascertain the amount of the deficiency, the advance payment will not be assessed on receipt. The payment is treated as a cash bond for the taxes thereafter found to be due. The taxpayer will be advised as to the status of the payment. The payment will be returned (with interest) (¶ 9188) to the taxpayer at his request. But if the return is not requested, assessment will be made and the payment applied accordingly as soon as the deficiency is ascertained.

IRS followed the Supreme Court's position that interest does accrue on an advance deposit.³³

caution: Exercise care in making advance payments with respect to any liability that is in dispute, especially if no 90-day letter has been issued. Though an advance payment may stop the running of interest on the disputed liability, an advance payment made before the issuance of a 90-day letter may wipe out the deficiency, and without any deficiency, there's no appeal to the Tax Court. The only opportunity to contest the deficiency would then be through the refund procedure.

¶ 9108. **Limitations on assessing deficiencies.** Unless the taxpayer and the government sign a closing agreement covering the deficiency (¶ 9096), or the taxpayer voluntarily pays the deficiency or executes a waiver of restrictions on assessments (¶ 9080), or the collection of the tax is determined to be in jeopardy, deficiencies in income, estate, and gift taxes, and excise taxes on real estate investment trusts, private foundations and qualified pension, etc., plans or the Code Sec. 860E(e)(1) tax on transfers of residual interests and the Code Sec. 860E(e)(6) pass-thru entities tax may not be assessed until after the taxpayer has had an opportunity to have the issues decided by the Tax Court.³⁴

However, IRS can make an immediate assessment after the petition is filed, for amounts that are attributable to a tentative net operating loss

24. Reg § 301.6203-1.

25. Code Sec. 6303.

26. Code Sec. 6201(a)(1).

27. Code Sec. 6020(b).

28. Code Sec. 6201(a)(1); Reg § 301.6201-1(a)(1).

29. Code Sec. 6213(b)(4).

30. Rev Proc 63-11, 1963-1 CB 497.

31. Reg § 301.6213-1.

32. *Fortugno, Daniel Est v. Com.*, (1965, CA3) 353 F2d 429, cert granted (1966) 384 US 959, 16 L Ed 2d 672, dismd (1966) 385 US 954, 17 L Ed 2d 302; Rev Proc 63-11, 1963-1 CB 497.

33. *Fortugno, Daniel Est v. Com.*, (1965, CA3) 353 F2d 429, cert granted (1966) 384 US 959, 16 L Ed 2d 672, dismd (1966) 385 US 954, 17 L Ed 2d 302; Rev Proc 63-11, 1963-1 CB 497.

34. Code Sec. 6213; Code Sec. 860E(e)(5).

no reduction in the deficiency claimed, or more than one tax year is being closed.¹²

The request for a full-year final closing agreement is ordinarily made (by the taxpayer) to the office where the return for the period involved was filed. When Appeals Division settlement proceedings are in process, the request is made to the official handling the case. The request must be submitted before the determination of the tax liability goes before any court of competent jurisdiction.¹³

¶ 9099. Closing a specific item. A final closing agreement on a specific item is made when the Commissioner agrees to be bound as to a particular transaction by a particular taxpayer. The tax effect of a specific item may be settled by a final closing agreement on Form 906, whether or not the tax year involved has ended. This type of closing agreement is used principally to assure consistent treatment in other tax years. It is not necessary that any immediate tax liability be involved. Moreover, there may be a series of final closing agreements relating to different items in one tax year.¹⁴

Compromises

¶ 9100. Compromises. Any civil or criminal case arising under the Internal Revenue laws can be compromised by IRS before it is referred to the Department of Justice for prosecution or defense (¶ 9017). But compromises after the referral can be made only by the Department of Justice.¹⁵

Although the authority to compromise cases is broad, it is narrowly applied. IRS will compromise civil tax liabilities on two grounds only: (1) doubt as to the liability and/or (2) doubt as to collectibility.¹⁶

✓ *observation:* As a practical matter, most IRS civil compromises are based on inability to pay, not on doubt as to liability.

9103. Assessment—the Act of Recording the Tax Liability.

Assessment is basically the act of recording the tax liability. Future collection activities depend upon this act. In income, estate and gift tax cases the tax liability generally must be determined before there can be an assessment of a deficiency, except where the collection of the tax is in jeopardy or where the taxpayer has entered into bankruptcy proceedings.

✓ for in-depth discussion, see RIA Federal Tax Coordinator 2d Chapter T.

Where the civil tax liability is \$100,000 or more, only the Director of IRS' Collection Division has authority to make the compromise. District directors, and Appeals Office regional directors and chiefs, can make the compromise where the liability is less than \$100,000.¹⁷

Criminal tax liabilities are compromised only in regulatory tax cases and then only where the violation was not fraudulent.¹⁸

✓ *observation:* The offer in compromise serves a useful purpose once the liability has been determined. In cases in which there is doubt as to the liability, it is best to follow the Appeals Office settlement procedures where there can be a trading of issues to reduce the liability set up by the tax examiner. Once the liability is reduced, the taxpayer can thereafter submit a compromise based on inability to pay.

¶ 9101. Effect of compromise. A compromise is different from the settlement of the usual tax controversy at the district or appellate level or a Tax Court settlement at the regional counsel level. It is essentially a contract between the taxpayer and the government for an accord and satisfaction of his tax liability.¹⁹

¶ 9102. How to enter into compromise. The taxpayer submits his compromise proposal on Form 656, entitled "Offer in Compromise," which goes to the revenue officer assigned to the case.²⁰ If the offer is based on inability to pay, the taxpayer will have to submit a detailed financial statement on Form 433.²¹

If the offer is rejected the taxpayer will be notified and any amount tendered with the offer will be returned.²² Similarly, the amount tendered with an offer that is withdrawn by its proponent also must be refunded.²³ The taxpayer can appeal any rejection of an offer under the appeal procedures discussed at ¶ 9071 *et seq.*

12. Reg § 601.202(a)(2); Reg § 601.202(b); Reg § 301.7121-1(b)(2).
 13. Reg § 601.202(b); Reg § 301.7121-1(d).
 14. Reg § 601.202(a)(2).
 15. Code Sec. 7122.
 16. Reg § 301.7122-1(a); Rev Proc 80-6, 1980-1 CB 586.
 17. Reg § 601.203(a)(1).

18. Reg § 301.7122-1(a); Reg § 301.7122-1(b).
 19. Reg § 601.203; Rev Proc 57-41, 1957-2 CB 1119.
 20. Reg § 601.203(b); Rev Proc 57-41, 1957-2 CB 1119.
 21. Rev Proc 80-6, 1980-1 CB 586.
 22. Reg § 601.203(c)(3).
 23. Reg § 301.7122-1(d)(4).

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.

3.17.63.14.2 (10-01-1999)

Account 6111 Withholding Tax
Assessments--Penalty

- 1.This account is used to summarize the total amounts of assessments of tax class 1 Penalties as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 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 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.4 (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.

3.17.63.14.7 (10-01-1999)

Account 6130 Corporation Tax
Assessments--Principal

Exhibit L 1 of 3

- 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.
- 3.Total tax class 3 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.10 (10-01-1999)

Account 6140 Excise Assessments--Principal

- 1.This account is used to summarize the total amounts of assessments of tax class 4 Principal as provided by the Internal Revenue Code. The balance of this account represents total tax class 4 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 4 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.13 (10-01-1999)

Account 6150 Estate & Gift Tax
Assessments--Principal

- 1.This account is used to summarize the total amounts of assessments of tax class 5 Principal as provided by the Internal Revenue Code. The balance of this account represents total tax class 5 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 5 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.16 (10-01-1999)
Account 6170 CTA Tax
Assessments--Principal

- 1.This account is used to summarize the total amounts of assessments of tax class 7 principal as provided by the Internal Revenue Code. The balance of this account represents total tax class 7 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 7 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.19 (10-01-1999)
Account 6180 Futa Tax
Assessments--Principal

- 1.This account is used to summarize the total amounts of assessments of tax class 8 Principal as provided by the Internal Revenue Code. The balance of this account represents total tax class 8 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 8 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

IRS Published Product Catalog

IRS

Department of the Treasury
Internal Revenue Service
Publish no.list.gov
Document 7130 (Rev. 11-1999)
Catalog Number 63740X

Exhibit M 1 of 2

2065 **61499B** Each
11/1981 Use/Issue Prev Issue First
Qualifications Record
 This form is used to establish qualifications for specific jobs. *M:ES* Internal Use

2076 **61502N** Each
05/1993 Destroy Prev Issues Upon Rec
Inspection Referral Memorandum
 Form 2076 reflects the procedure which calls for use of a sole transmittal memo for all types of reports service-wide. The form also provides for the return to inspection of all such documents. *I:IS:P* Internal Use

2077 (C) **10602Y** Each
07/1994 Destroy Prev Issues Upon Rec
Security Determination Action
 Forms provide a permanent record of security determination action made in accordance with Executive Order 10450. *M:S:NBIC* Internal Use

2079 (C) **62454Y** Each
08/1993 Destroy Prev Issues Upon Rec
Request for Check of Police Files
 Used by IRS to obtain information of a subject under investigation. *I:IS:P* Internal Use

2083 **17965C** Each
12/1998 Destroy Prev Issues Upon Rec
Annual Report of Informants' Claim Processed
 This form is used to report data on taxes recovered attributable to informants' claiming rewards. *CP:EX:MA* Internal Use

2087 **17974N** Each
03/1966 Destroy Prev Issues Upon Rec
Procurement Control Register
 Used to maintain records of contract field printing, Government field printing procurement, procurement of photographic services and procurement of microfilm services. *HR:C* Internal Use

2106 **11700N** Each
1999 Min Supply For Late Filers
Employee Business Expenses
 For optional use to support deductions from income tax for travel, transportation, outside salesman or educational expenses (except moving expenses). There are separate instructions for this form. The catnum for the instructions is 64188V. *OP:FS:FP:F:I* Tax Form or Instruction

2106 (U) **24559M** Each
1999 Min Supply For Late Filers
Employee Business Expenses
 Instructions for filing Form 2106, Employee Business Expenses. *OP:FS:FP:F:I* Tax Form or Instruction

2106 EZ (U) **25910V** Each
1999 Min Supply For Late Filers
Unreimbursed Employee Business Expenses
 Form 2106 EZ (U) is supplied to posts of duty for distribution. This form is filed with Form 1040 by employees who are deducting expenses attributable to the job, not reimbursed by their employer for any expenses, and use the standard mileage rate. *T:FS:FP:F:I* Tax Form or Instruction

2106 EZ **20604Q** Each
1999 Min Supply For Late Filers
Unreimbursed Employee Business Expenses
 Form 2106 EZ is used by employees who are deducting expenses attributable to the job, specifically when not reimbursed by the employer for any expenses or claiming vehicle expense. *OP:FS:FP:F:I* Tax Form or Instruction

2119 **11710J** Each
1997 Destroy Prev Issues Upon Rec
Sale of Your Home
 There are separate instructions for this item. The catnum for the instructions are 18038W. *T:FP:F:I* Tax Form or Instruction

2119 (U) **24560N** Each
1997 No Previous Issue
Sale of your Home
 This item is coded for use by POD's only. *T:M:T:S* Tax Form or Instruction

2120 **11712F** Each
01/1997 Destroy Prev Issues Upon Rec
Multiple Support Declaration
 This statement disclaims as an income tax exemption, an individual to whose support the taxpayer and others have contributed. IRC Sec. 152(c); Regs. Sec. 1.152-3(c); and Publication 17. *T:FP:F:I* Tax Form or Instruction

2159 **21475H** Each
03/1997 Destroy Prev Issues Upon Rec
Payroll Deduction Agreement
 Form 2159 is used by Collection function personnel to establish a taxpayer installment agreement via the payroll deduction plan, thus minimizing taxpayer default. *OP:CO:C:FP* Tax Related Public Use

2159 (SP) **20708J** Each
03/1998 Destroy Prev Issues Upon Rec
Payroll Deduction Agreement (Spanish Version)
 Form 2159 (SP) is used by the Collection function to establish a taxpayer's installment agreement via the payroll deduction plan, thus minimizing taxpayer default. *OP:CO:C:FP* Internal Use

2163 (C) **62495T** Each
06/1994 Destroy Prev Issues Upon Rec
Employment Reference Inquiry
 Form 2163 (c) is used by the National Background Investigation Center to request information from an employer. *M:S:NBIC* General Admin Public Use

2165 **18102V** Each
08/1981 Destroy Prev Issues Upon Rec
Federal Group Life Insurance Information for Employees Leaving the Internal Revenue Service
 This form is completed by IRS employees upon leaving the Service. It is used to inform the Service of the employee intentions regarding his/her Federal Group Life Insurance Policy. *HR:P:H:S:B* Internal Use

2187 **18135Q** Each
02/1981 Destroy Prev Issues Upon Rec
Information and Instructions for New Employees
 Used to provide information and instructions for new employees and refers to certain actions that must be accomplished before the individual's appointment can be confirmed. *HR:P:EE* Internal Use

2188 **18136B** Each
09/1981 Destroy Prev Issues Upon Rec
Voucher and Schedule of Overpayment and Overassessments
 Form 2188 is completed by accounting technicians to certify an overpayment and/or overassessment of a taxpayer's account which resulted in a refund, a credit transfer to another liability, or a reduction in the same balance. The form is routed to RACS (Revenue Accounting Control System) Unit personnel for accounting purposes. *R:R:A:S* Internal Use

2192 **18143Q** Each
04/1986 Destroy Prev Issues Upon Rec
Memorandum Review of Cases
 This form is used by regional reviewers of cases closed without prosecution to make their comments regarding the post reviewed report. *CI:P:T* Internal Use

2198 **18149E** Each
09/1980 Destroy Prev Issues Upon Rec
Determination of Liability for Personal Holding Company Tax
 Form 2198 is used by tax examiners as an agreement with a taxpayer that they are liable for personal holding company tax. *CP:EX:GF* Tax Related Public Use

2207 **18158P** Each
10/1993 Destroy Prev Issues Upon Rec
Time Report-Internal Audit Division
 This Form is used for daily reporting of time by Internal Audit Staff Members. *I:IA:P* Internal Use

2209 **21515G** Each
05/1994 Destroy Prev Issues Upon Rec
Courtesy Investigation
 Form 2209 is used for District investigations in locating taxpayers or to gather information in collecting on assigned cases. *OP:CO:C:FP* Internal Use

2209 (C) **21516R** Each
07/1987 Destroy Prev Issues Upon Rec
Courtesy Investigation
 This form is used when investigating taxpayer accounts. *CP:CO:C:FP* Internal Use



DEPARTMENT OF TREASURY

**INTERNAL REVENUE
MANUAL**

5300

**Balance Due Account
Procedures**

Exhibit *N* of 2

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 6851 and 6852 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 6852 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/her's or as belonging to another person whose identity can readily be ascertained and who acknowledges ownership of it, so that the collection of tax on it is presumed to be in jeopardy within the meaning of IRC 6867.

MT 5300-1

5313.1

IR Manual

Intro. To the FOIA Section

- A. Assessments are an item that the IRS likes to sweep under the carpet and not talk about, as they never have a valid assessment.
1. Without a VALID ASSESSMENT how can they do anything to you or how can they steal grandpa's farm?
 2. They use FEAR (false evidence appearing real) intimidation, force and deception.
 3. After dealing with them for years there are certain things you can count on:
 - a. They never tell the truth.
 - b. Their paperwork is never correct.
 - c. They expect the U.S. attorney and judge to cover up their sinister deeds.
 - d. They have never read the IRC (Internal Revenue Code) of 1939, 1954, and 1986.
 - e. They have never read their own manuals. We have been to or have transcripts of meetings where they agents will say "Where did you get that, I have never seen that before and I have been working for the IRS for 16 years."
 - f. They never read their own handbooks.
 - g. They never read their own publications.
 - h. They never read their USC title 26, CFR.
 - i. They have never read public laws that pertain to them.
 - j. They have never read their systems of records.
 - k. They have never read their own Treasury Order or Treasury Decisions.
 - l. They have never read their own Delegation orders.
 - m. They have never read from the feed back we have been receiving the 1998, tax reform and Restructuring Act. This Act overturns a large number of cases that they have been relying upon for years. They are still trying to rely on those same cases.

- n. They have never read the Statutes at Large sections that pertain to them.
 - o. They seldom follow the Law or skip over various steps of the Law or procedures that they are supposed to know.
4. Do we expect each of you to read items “a-o” above? No way!
- a. We only want you to know at least the basis of some of those items so you can be aware of them.
 - b. The more you read and learn you will soon realize that most of what is contained in items a-o above is there for YOUR BENEFIT not theirs. Don’t let that little secret out of the bag!
- B. Once people go through our Levels one, two, and three, they type up their own FOIA request or have us type them up for them.
- 1. We have just opened up a whole new area of information and knowledge for those people.
 - 2. Many of you have been dealing with the IRS for years and when you start using the FOIA process you have for the first time found a process that you can do that actually works and is not just a bunch of empty hype that has cost you thousands.
 - 3. You become the pilot of a B-52 dropping FOIA requests on the IRS and like the B-52 you will make very specific FOIA requests for certain particular conditions. Or you can carpet FOIA them.
 - a. Few of your FOIA requests are going to hit an ammo dump or a fuel dump but if you don’t make the effort you have zero chance of hitting that ammo or fuel dump.
 - b. Do you realize how many hours of training a B-52 pilot goes through before they fly their first actual mission? They practice, practice and practice.
- C. Once you drop your first load of FOIA requests you then look at the results reload and off you go again.
- D. If you train all those hours as a B-52 Pilot would you quit after one mission? The more missions you fly the better you get and all those hours of training start to kick in.

- E. We have men and women calling us everyday saying, “Guess what I got back from my FOIA request?”
1. I got my IMF or BMF back and they have this code or that code on it just like you said and we want it decoded as soon as possible.
 2. I just got these FOIA requests back and your right; they don't have any assessments.

FOIA Request for a Form 23c

A. In the January, February, and March 2002 issues of the "VIP Dispatch" we pointed out that the IMF Operations Manual made references to the 23c several times.

B. In this issue of the Dispatch we pointed out the 23c several times.

C. Here is a sample FOIA request for a form 23c.

D. The IRS stopped sending these out in about 1988.

E. When asked for the form 23c they will try to pawn off on you a "006 RACS report" or a "4340 form."

1. A "006 RACS report" according to Government accounting office is totally unreliable. Read the GAO report in the beginning of our IRS level II course.

2. The 4340 according to a number of court cases are a hearsay document and when Objected to must be thrown out. We have seen in the last few years a very determined effort by the IRS and the courts to try and add some validity to the 4340 form and shun away from what the actual law says. Whenever the 4340 are used it must be accompanied by supporting documents to which it never is.

3. The "006 RACS" and the 4340 form are the best the IRS has been offering so that means that it is very important to be ready to destroy these two items when the times come. It's like shooting the horse out from under the bandit old black Bart. He is not going to walk very far and when he does get another horse he will most likely go look for someone else to plunder, as he doesn't want to have to walk again.

F. You would only send in this request if you have received some form of a bill for the IRS that you owed them money for back taxes.

G. If you have been filing then you have been self-assessing yourself and there would not be any reason for the IRS to assess you.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # acct

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years: yrs
4. BACKGROUND: See Exhibit A - Department of Treasury Internal Revenue Manual 5300, Balance Due Account Procedures at 2 of 2 section 5312(1) very clearly tells us that the IRS Form 23-C is the 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. At section 5312(2) the assessment is the date that the Form 23-C is signed by the assessment officer. See Exhibit B - IRM 3(17)(63)(14).1(2), All tax assessments must be recorded on Form 23-C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity. See Exhibit C - IRM 3.17.63.14.7 (10-01-2000) Account 6120 Individual Income Tax Assessments. Principal at paragraph (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. See Exhibit D - Meyersdale Fuel Co. v. United States 44F.(2d) 437 in the second column at the middle arrow again show the 23-C Assessment. See Exhibit E - blank 23-C Assessment Certificate. See Exhibit F - Filled out 23-C Assessment Certificate. See Exhibit G - RACS 006 Report.

NOTE: I am not requesting RACS 006 report.

See Exhibit H - GAO/T - AIMD - 96 - 56 clearly tells us at page 2 of 3 that IRS' financial statement amounts for revenue in total and by type of tax were not derived from it's revenue general ledger accounting system (RACS), or its master files of detailed individual taxpayer records. RACS does not contain detailed information by type of tax such as individual income tax, or corporate tax. The master file cannot summarize the taxpayer information needed to support the amounts identified in RACS. As a result, IRS relied on alternative sources, such as Treasury Schedules, to obtain the summary total by type of tax needed for its financial statement presentation.

IRS asserts that the Treasury amounts were derived from IRS records; however, neither IRS or Treasury's records maintained any detailed information that could be tested to verify the accuracy of the figures.

NOTE: I am not requesting for Form 4340, Certificate of Assessments and Payments.

See Exhibit I - Form 4340, simply a worksheet which can be created at any time and relies upon the 23-C Assessment Certificate. A Form 4340 is created after a 23-C and must be supported by other documents.

NOTE: I have read Handbook 1.3, Disclosure of Official Information, Chapter 13, Freedom of Information Act.

See Exhibit J - (1.3)13.5.6 (08-31-2000) paragraph 4.B and paragraph 7. This is how I'm requesting this information.

NOTE: I have read Handbook 1.3, Disclosure of Official Information, Chapter 13, Freedom of Information Act.

See Exhibit K - (1.3)13.3.7 (08-19-1998) which had to be rewritten to conform with RRA98. I have read the complete section concerning 23-C Assessment Certificate.

5. Please send a certified copy of the Record of Assessment Form 23-C which is specific to Me and no other and which indicates the alleged liability. Any questions regarding exactly what I am requesting should be directed in writing to above address.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

DEPARTMENT OF TREASURY

**INTERNAL REVENUE
MANUAL**

5300

**Balance Due Account
Procedures**

Exhibit A 1 of 2

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.

3. Total tax class 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.6 (10-01-2000)

Account 6112 Withholding Tax Assessments--Interest

1. This account is used to summarize the total amounts of assessments of tax class 1 **Interest** as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 **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 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.7 (10-01-2000)

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.

3.17.63.14.8 (10-01-2000)

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.

3.17.63.14.9 (10-01-2000)

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.



"An investigation in connection with the taxpayer's protest against the application of \$91,641.63 of its overassessment to the deficiencies in tax against the above-mentioned companies, disclosed that the case had not been adjusted in accordance with the ruling of the United States Board of Tax Appeals in the case of the Mather Paper Company and that the greater portion of the overassessment represents an erroneous allowance and the deficiencies in tax against the so-called affiliated companies for 1920, were erroneously assessed in whole, with the exception of \$5,439.35 of the tax against the Franklin Gas Coal Company.

Randolph Coal Company, Somerset, Pennsylvania, No. 401322—D 6,580.48

In the final decision of the Commissioner, to the extent of the tax liability of the several companies, the original assessment of \$109,639.03 was not canceled or abated. No new or further assessment against any of the companies was made by the Commissioner, and no new or further assessment list or lists were ever signed by the Commissioner in respect of any portion of the original assessment of \$109,639.03. The pages of the collector's record upon which he made a distribution and appropriate entries in order to allocate the total tax shown on the consolidated return and on the assessment list in the name of plaintiff to the several companies, as above set forth, were headed "Assessment list" and were on form 23—A, but were not signed by the Commissioner or by any one else. When the Commissioner of Internal Revenue makes an assessment of taxes he signs a list entitled "Commissioner's assessment list" on form 23 C—1. No such list was signed by the Commissioner with respect to the tax of any of the companies hereinbefore mentioned subsequent to the assessments made by him against the Franklin, Smokeless, and Randolph Companies in June, 1926.

"In a communication from the accounts and collections unit dated April 14, 1928, you were authorized to eliminate the credits totaling \$91,641.63 and advised that overassessments were to be allowed in favor of the several companies for 1920.

"The overassessments are listed on Schedule IT—29648, which was mailed to your office April 16, 1928.

"Inasmuch as the additional tax for 1921 was correctly assessed against the Randolph Coal Company and no certificate will be issued for that year, the \$1,105.43 outstanding on the June, 1926, #4 list, #144, as a result of eliminating the credit, should be collected."

13. The collector of internal revenue, pursuant to the instructions from the Commissioner's office and in conformity with the letter of the Commissioner of April 10, 1928, to counsel for the plaintiff, hereinbefore mentioned, changed the entries on his books with reference to the total tax of \$109,639.03 shown on the original consolidated return and included on the original March, 1921, assessment list, No. 401322, in the name of the Meyersdale Fuel Company, in order to show a distribution of this total tax to the plaintiff, the Franklin, Smokeless, and Randolph Companies, on the basis of net income properly assignable to each; and after such distribution the collector's records showed the following:

14. When the collector had made appropriate entries in his records, as last above mentioned, the Commissioner on June 15, 1928, issued a second certificate of overassessment, No. 930519, Schedule 29648, to the plaintiff showing an overassessment for 1920 in the amount of \$5,368.01 and interest thereon of \$1,739.01. There was attached to this certificate of overassessment Treasury check payable to the plaintiff for these two amounts totaling \$7,107.02.

15. June 15, 1928, the Commissioner issued to the Smokeless Company a certificate of overassessment, No. 1096526, Schedule 29648, showing an overassessment for 1920 of \$2,862.80. This was the assessment made by the Commissioner against this company in June, 1926. This certificate of overassessment showed a partial abatement of this amount of \$2,362.80 and a refund of the balance of \$500 with interest, or \$33.04. This refund came about by reason of the fact that before the final credits made by the collector, as last above set forth, certain collections had been made from this company. There was sent to the plaintiff with this certificate of overassessment Treasury check payable to it in the amount of \$533.04.

Meyersdale Fuel Company, Somerset, Pennsylvania, No. 401322—A	\$23,365.41
Franklin Gas Coal Company, Somerset, Pennsylvania, No. 401322—B	76,840.34
Smokeless Quemahoning Coal Company, Somerset, Pennsylvania, No. 401322—C.....	73. 2,852.80

Exhibit D of 1

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)				Total Assessments
	Tax	Penalty	Interest	No. of Items	Tax	Penalty	Interest	No. of Items	
Withheld individual income and FICA									
Individual income—other									
Corporation income and excess profits									
Excise									
Estate and gift									
Tax on carriers and their employees									
Federal unemployment tax act									
Total Assessments									

74

6 Prepared From Accounting Input Reconciliation Sheets

5. Jeopardy Assessments Against Principal Taxpayers
(Included in the assessments above)

Number of principal taxpayers	Date and Number	Through	Date and Number
Total assessed against principal taxpayers			

Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in the reporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

A. Date

B. Signature (For service center/district director of internal revenue)

Assessment Officer

Exhibit E 1 of 1

Assessment Certificate

Summary Record of Assessments

1. Service center **Cincinnati**
 2. Date **June 28, 1982**
 3. Prepared by **R. Carter**
 4. Number **17-313**

Class of Tax	Current Assessments				Deficiency and Additional Assessments (Resulting From Regular Audit Examinations)					Total Assessments (1)	
	Tax & Penalty (a)		Interest (b)		Tax & Penalty (c)		Interest (d)		No. of Items (e)		
Withheld individual income and FICA	1,434,557,499	77	1,229,526	91	31,223	14	8,894	34	28	1,435,827,144	16
Individual income—other	969,052,434	22	1,101,945	20	1,417,152	18	283,901	52	1,945	971,855,433	12
Corporation income and excess profits	80,646,299	85	207,052	67	159,961	61	32,407	01	53	81,045,721	14
Excise	32,295,739	17	12,708	98	64,929	94	13,149	52	38	32,386,527	61
Estate and gift	2,755,952	49	117,475	55	57,772	66	9,845	17	13	2,941,045	87
Tax on carriers and their employees		204 94		18 60	-0	--	-0	--	0		223 54
Federal unemployment tax act	852,757	66	63,833	04	222	20	45	94	4	916,858	84
Total Assessments	2,520,160,888	10	2,732,560	95	1,731,261	73	348,243	50	2,081	2,524,972,954	28

5. Jeopardy Assessments Against Principal Taxpayers
(Included in the assessments above)

6. Prepared From Accounting Assessment Journals

Date and Number	Through	Date and Number
BMF, IMF & IRA Service Center Recaps		Cycle 8224
For Assessment Week Ending June 28, 1982		
BMF Jr1 4-6-11	IMF Jr1 4-6-12	IRA Jr1 4-6-13

Certification

I certify that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in supporting records, subject to such correction as subsequent inquiries and determinations in respect thereto may indicate to be proper.

7. Date
June 28, 1982

8. Signature (For service center director of Internal Revenue)

Sylvia G. Hermann

Assessment Officer

EXHIBIT F 2012

SUMMARY RECORD OF ASSESSMENTS

TIME

DATE

PAGE 1

PHILADELPHIA SERVICE CENTER

14:52:08

03/11/96

CERTIFICATE NUMBER 20 031196 000005

ASSESSMENT TYPE Q

ASSESSMENT DATE 03/11/96

CURRENT ASSESSMENTS

<u>CLASS OF TAX</u>	<u>ITEMS</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>
WITHHELD INDIVIDUAL INC AND FICA	0	\$ 0.00	\$ 0.00	\$ 0.00
INDIVIDUAL INC - OTHER	0	\$ 0.00	\$ 0.00	\$ 0.00
CORPORATION INC AND EXCESS PROFITS	0	\$ 0.00	\$ 0.00	\$ 0.00
EXCISE	0	\$ 0.00	\$ 0.00	\$ 0.00
ESTATE AND GIFT	0	\$ 0.00	\$ 0.00	\$ 0.00
TAX ON CARRIERS AND THEIR EMPLOYEES	0	\$ 0.00	\$ 0.00	\$ 0.00
FEDERAL UNEMPLOYMENT TAX	0	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL CURRENT ASSESSMENTS	0	\$ 0.00	\$ 0.00	\$ 0.00

DEFICIENCY ASSESSMENTS

WITHHELD INDIVIDUAL INC AND FICA	0	\$ 0.00	\$ 0.00	\$ 0.00
INDIVIDUAL INC - OTHER	79	\$ 436,365.00	\$ 1,142,186.36	\$ 44,078.24
CORPORATION INC AND EXCESS PROFITS	9	\$ 406,439.00	\$ 32,972.85	\$ 2,051.75
EXCISE	0	\$ 0.00	\$ 0.00	\$ 0.00
ESTATE AND GIFT	0	\$ 0.00	\$ 0.00	\$ 0.00
TAX ON CARRIERS AND THEIR EMPLOYEES	0	\$ 0.00	\$ 0.00	\$ 0.00
FEDERAL UNEMPLOYMENT TAX	0	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL DEFICIENCY ASSMTS	89	\$ 842,803.00	\$ 1,175,159.21	\$ 46,129.99

76

Exhibit G 1 of 1

GAO

Testimony

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

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

IRS OPERATIONS

Significant Challenges in
Financial Management and
Systems Modernization

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

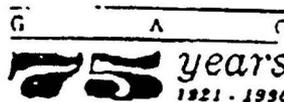


Exhibit H 1 of 3

One, the amount of total revenue of \$1.3 trillion reported in the financial statements could not be verified or reconciled to accounting records maintained for individual taxpayers in the aggregate.

Two, amounts reported for various types of taxes collected, for example, social security, income, and excise taxes, could also not be substantiated.

Three, we could not determine from our testing of IRS' gross and net accounts receivable estimates of over \$69 billion and \$35 billion, respectively, which include delinquent taxes, whether those estimates were reliable.

Four, IRS continued to be unable to reconcile its Fund Balance With Treasury accounts.

Five, we could not substantiate a significant portion of IRS' \$2.1 billion in nonpayroll expenses included in its total operating expenses of \$7.2 billion, primarily because of lack of documentation. However, we could verify that IRS properly accounted for and reported its \$5.1 billion of payroll expenses.

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

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

The sections below discuss these issues in greater detail.

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

Exhibit 4203

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

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

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

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

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

Exhibit H 3 of 3

Table of Contents

35(65)0 Transcripts

35(65)1

General

Purpose and Scope 35(65)1.1
Glossary of Terms 35(65)1.2

35(65)2

Certification of Transcripts

General 35(65)2.1
Form 4340, Certificate of Assessments and Payments 35(65)2.2
Preparation of Form 4340 35(65)2.3
Form 2866, Certification of Official Record 35(65)2.4

35(65)3

Taxpayer Request for Transcript

General 35(65)3.1
BMF Type of Request K Literal Transcript 35(65)3.2

35(65)4

Transcripts for Treasury and/or IRS Employees

New Employee Tax Verification 35(65)4.1
Treasury Employee File 35(65)4.2
Employee Delinquency Check 35(65)4.3

35(65)5

Privacy Act, Non-Privacy Act Literal Transcripts, BMF or IMF Literal Transcripts, and Recording Third Party Disclosures

Background 35(65)5.1
Scope 35(65)5.2
Administrative Rules 35(65)5.3
Requesting Privacy Act Transcripts and Non-Privacy Act Literal Transcripts (IMF) 35(65)5.4
Requesting Privacy Act Transcripts (NMF) 35(65)5.5
Recording Third Party Disclosures (IMF) 35(65)5.6
Recording Third Party Disclosures (NMF) 35(65)5.7
Master File Privacy Act Transcript Requests 35(65)5.8

35(65)6

BMF Disclosure Transcripts as Provided For by the Tax Reform Act of 1976

Background 35(65)6.1
Administrative Rules 35(65)6.2
Requests for BMF Disclosure Transcripts 35(65)6.3

35(65)7

IRSS Transcripts

Background 35(65)7.1
How They are Requested 35(65)7.2

35(65)8

General Information About Transcripts

Types of Transcripts 35(65)8.1
Requesting Transcripts 35(65)8.2
Who Can Request Transcripts 35(65)8.3

Urgent Requests 35(65)8.4

35(65)9

Transcript Research Systems (TRS)/Microfilm Replacement system (MRS)

General 35(65)9.1
Do's and Don'ts When Requesting Transcripts 35(65)9.2
Types of Requests 35(65)9.3

35(65)(10)

Transcripts From IDRS

IDRS Requested Transcripts 35(65)(10).1
Generated IDRS Transcripts 35(65)(10).2
Diagnostic Transcripts Generated 35(65)(10).3
Description of IDRS Transcripts 35(65)(10).4

35(65)(11)

MF Generated Transcripts

General 35(65)(11).1
BMF Transcripts Names and Descriptions 35(65)(11).2
EPMF Transcripts Names and Descriptions 35(65)(11).3
IMF Transcripts Names and Descriptions 35(65)(11).4

Exhibit 35(65)0-1

Form 813—Document Register

Exhibit 35(65)0-2

Form 2475—Request for Transcript of Taxpayer Account

Exhibit 35(65)0-3

Form 5204—Record of Accounts

Exhibit 35(65)0-4

Form 2866—Certification of Official Record

Exhibit 35(65)0-5

Overlay 2, Transcript of Account—EPMF

Exhibit 35(65)0-6

Form 4338—Information or Certified Transcript Request
Form 4338—Information or Certified Transcript Request (Reverse Side)
Form 4338-A—IMF Information or Certified Transcript Request

Exhibit 35(65)0-7

Form 4340—Certificate of Assessments and Payments

Exhibit 35(65)0-8

Form 5012 New Employee Tax Verification

Exhibit 35(65)0-9

Transcript Output Chart

Exhibit 35(65)0-10

IRAF Transcript Layout

Exhibit 35(65)0-11

EPMF Form 5500 Series Return Transcript

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).

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 Disclosure Officers
 - [1.3] 13.3.2 Functional Coordinators
 - [1.3] 13.3.3 FOIA Requests Sent to Multiple Offices
 - [1.3] 13.3.4 Unique FOIA Aspects
- [1.3] 13.4 Overview and Processing
 - [1.3] 13.4.1 Receipt and Control of FOIA Requests
- [1.3] 13.5 Initial Analysis of FOIA Request
 - [1.3] 13.5.1 Imperfect Requests
 - [1.3] 13.5.2 Requests for "All Records Concerning Me"
 - [1.3] 13.5.3 Requests for Other Agency Records
 - [1.3] 13.5.4 Transferring Requests
 - [1.3] 13.5.5 Pseudo Requests
 - [1.3] 13.5.6 Unclear Requests
 - [1.3] 13.5.7 Routine Established Agency Procedures
 - [1.3] 13.5.8 Identity of Requester
- [1.3] 13.6 Search Process
 - [1.3] 13.6.1 Documentation of Search Efforts
 - [1.3] 13.6.2 Search Efforts
 - [1.3] 13.6.3 Adequacy of Search
- [1.3] 13.7 Review and Editing
 - [1.3] 13.7.1 Approach to Exemptions
 - [1.3] 13.7.2 Exemptions
 - [1.3] 13.7.2.1 (b)(1)
 - [1.3] 13.7.2.2 (b)(2)
 - [1.3] 13.7.2.3 (b)(3)
 - [1.3] 13.7.2.4 (b)(4)
 - [1.3] 13.7.2.5 (b)(5)
 - [1.3] 13.7.2.6 (b)(6)
 - [1.3] 13.7.2.7 (b)(7)
 - [1.3] 13.7.2.7.1 (b)(7)(A)
 - [1.3] 13.7.2.7.2 (b)(7)(B)
 - [1.3] 13.7.2.7.3 (b)(7)(C)
 - [1.3] 13.7.2.7.4 (b)(7)(D)
 - [1.3] 13.7.2.7.5 (b)(7)(E)
 - [1.3] 13.7.2.7.6 (b)(7)(F)
 - [1.3] 13.7.2.8 (b)(8)
 - [1.3] 13.7.2.9 (b)(9)
 - [1.3] 13.7.3 Record Exclusions

14. Correspondence may sometimes be received directly, as a courtesy copy, or forwarded from other Governmental agencies or officials in which the writer attempts to revoke his/her social security number, birth certificate, marriage license or other document and recites arguments which would appear to establish that the writer is not subject to some requirement of law. In the event this type of correspondence is received Disclosure personnel should:
 - A. Review it carefully to determine if the intent of the request would appear to be related to actual or intended non-compliance with tax return filing or payment requirements.
 - B. Review it for reference to a request pursuant to the Freedom of Information Act or Privacy Act. In the absence of such language or requests, no response is required. An acknowledgment, however, is appropriate.

EXAMPLE:

An original letter is received in Disclosure that appears to address issues related to taxpayer sovereignty, but does not relate to a request for information. The letter should be acknowledged but not considered a request for information. See subsection (d) below.

- C. Disclosure personnel may forward the correspondence to interested compliance functions, if it could be useful in helping to identify previously unknown non-filers.
 - D. If the correspondence is not forwarded to compliance functions or is found not to relate to non-filers, it should be maintained for a period not to exceed 90 days in compliance with IRM 1(15)59 31-130 regarding "transitory files" because they have no documentary or evidentiary value.
15. The Office of Governmental Liaison and Disclosure will forward correspondence described in (14) above to responsible Service Centers for disposal described in (14)(d) above.

[1.3] 13.5.6 (08-31-2000)

Unclear Requests

1. Analysis of the request may reveal the access statute is sometime unclear. The following variations may be encountered.
 - A. The request cites neither the Freedom of Information Act nor the Privacy Act.
 - B. The request cites both the Freedom of Information Act and the Privacy Act.
 - C. The request cites one Act, but the content of the request appears more appropriate to the other.
2. Any lack of clarity as to which statute is applicable should be resolved as closely as possible with the requester's stated intent, consistent with the law.
3. When the request cites neither the Freedom of Information Act nor the Privacy Act:
 - A. Review the request for any other reference to the statute or accompanying regulations which may provide additional information regarding the requester's intent.

EXAMPLE:

A request may simply state the statute such as 552 for the Freedom of Information Act or 552a for the Privacy Act, or may state the request is being made under 601.702(c) or 31 U.S.C. section 1, subpart (c) which are other references for the FOIA and Privacy Act respectively. There may be the letters FOIA on the envelope.

- B. Determine if records can be provided under a routine established agency procedure as set forth in 26 CFR 601.702(d), or under some other statute. They should be classified as that type of request and records provided under those provisions. See 13.5.6(4).
 - C. Requests for tax returns and return information during open enforcement activity, directed to the Service employee handling that open enforcement activity, and which do not cite the Freedom of Information Act or Privacy Act, may be handled by that Service employee, consistent with Delegation Order 156, as revised.
4. When the request cites both the Freedom of Information Act and the Privacy Act, and:

- A. the request is from a first party individual seeking access to his or her own records, classify as a request under the statute that will allow the greatest access. The Freedom of Information Act generally provides the greatest access.

NOTE:

Requests for records contained in an Examination administrative file which is a system of records that would be exempt from access provisions of the Privacy Act should be processed under the Freedom of Information Act.

- B. the request is from a third party or from an individual seeking records that are not maintained in a system of records, classify as a Freedom of Information Act request.

EXAMPLE:

A request is received for a delegation order, IRM, or Forms 23C, which are not maintained in a system of records. These would statutorily fall outside of the Privacy Act, but access should be granted to the extent possible through the Freedom of Information Act.

5. In situations where the requester cites the Privacy Act but would get greater access under FOIA and insists upon processing pursuant to the Privacy Act, log the case as a Privacy Act but provide the records which would be available under FOIA. The response letter should cite the Privacy Act section (t)(2).
6. Because the Privacy Act only applies to individuals, a request citing only the Privacy Act from a non-individual should be closed as imperfect.

NOTE:

An individual requesting records related to a sole-proprietorship would be considered an individual requester.

7. Requests which cite only the Privacy Act for records that are not maintained in a system of records, such as delegation orders, IRMs, or Forms 23C, should be processed as a FOIA request. See 13.5.6(4)(c) above.

NOTE:

These instructions are not intended to require that matters which could otherwise have been processed under the routine established agency procedures set forth in 26 C.F.R. 601.702(d) and discussed at 13.5.7, be treated as Freedom of Information Act requests.

8. In some cases, a single letter may contain some requests which are made pursuant to the Freedom of Information Act and which meet the procedural requirements of that Act and other requests which are made pursuant to the Privacy Act and which meet the procedural requirements of that Act. These requests should be treated as if both Acts were cited. For control purposes, they should be classified as a FOIA request.
- A. For these instances, the request should be considered a split request so each portion may be afforded proper treatment, appeal rights and the correct application of fees.
- B. Responses to such requests should distinguish the portions processed pursuant to each Act and the reasons therefor, to the extent practicable.

NOTE:

The instructions above are not intended to require disclosure personnel to distinguish between Freedom of Information and Privacy Act requests in situations where there is little or no significance to such distinction, such as when all requested records may be readily available and releasable and the differences in costs are minimal.

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
- [1.3] 13.4 Processing Requests
 - [1.3] 13.4.1 Making Transfers
 - [1.3] 13.4.2 Identity of Requester
 - [1.3] 13.4.3 Prompt Response
 - [1.3] 13.4.3.1 Alternate Procedures for Prompt Response
 - [1.3] 13.4.3.2 Expedited Response
- [1.3] 13.5 Responsive Documents
 - [1.3] 13.5.1 Risk Analysis Reports
 - [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
 - [1.3] 13.6.1 Open Investigatory Files
 - [1.3] 13.6.1.1 Record Exclusions
 - [1.3] 13.6.1.1.1 (c)(1) Exclusion
 - [1.3] 13.6.1.1.2 (c)(2) Exclusion
 - [1.3] 13.6.1.1.3 (c)(3) Exclusion
 - [1.3] 13.6.2 Title 31 Reports: CTRs, CMIRs and FBARs
 - [1.3] 13.6.3 Records Concerning Personal Privacy
 - [1.3] 13.6.4 EMPP Expectations
 - [1.3] 13.6.5 Protecting Identities of Service Employees
 - [1.3] 13.6.6 Responses Involving Handwritten Materials
- [1.3] 13.7 Technical Instructions
 - [1.3] 13.7.1 Indexing
 - [1.3] 13.7.2 Declarations

Exhibit K 1 of 3

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:

FOIA request concerning the NMF

- A. The FOIA request for a NMF can pertain to a IMF or BMF.
- B. When you do a FOIA request in this section make sure it is customized for either an IMF or a BMF.
- C. Triple check your FOIA request to make sure that it's filled out correctly.
 - 1. If it is for an IMF make sure all fill in items pertain to an IMF type of request. Check that your name and your SSN are in all the correct places, and that it is dated.
 - 2. Treat the BMF request in the same manner but use the entity name with the EIN in all the correct places. Also, make sure you have the date on it.
- D. If you, or the entity have not received a CP-504 or a CP-519 then you probably do not have a NMF (exhibit A from IRM 676).
- E. If the Disclosure Officer returns your FOIA request, he will send a form letter telling you why. Just correct your FOIA request and send it back in again. Do not let anything or anyone sidetrack you from doing your FOIA request.
- F. This FOIA process is your key to unlocking the IRS's "BIG DARK CHEST OF SECRETS," they are hiding from you.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account #

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. 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# or EIN#.
5. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

*FOIA Request for a form 5734 Non-Master file
assessment voucher*

- A. In order to have a valid assessment and to be able to assess you for penalties or interest the form must be filled out and sent to you when you request it.
- B. Exhibit A shows the IRS prepare how to fill out the 5734.
1. Item number 4 on the 5734 says type of tax now go down to the lower half of the page and what does it say "civil penalty"
 2. Item number 6; form number is the form number of the appropriate return according to their instructions. How can a 1040 be a type of tax like the IRS tries to make us believe?
 3. You should be able to go through the rest of this 5734 and learn to recognize these items for yourself.
- C. Here is a clean copy of a 5734 in case you should need one to use as a exhibit.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account #

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, 1 of 2 and 2 of 2, Form 5734.
5. Please send a certified copy of the form 5734 "Non Master File Assessment Voucher" which is specific to above referenced SS# or EIN# and no other and which indicates the alleged liability.
6. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.
7. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Qualified Requester

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. Abstract number	
9. Tax			S		
10. Penalty	I.R. Code Section or Type of Penalty	Trans. Code	Amount		
11. Interest			S		
12. Total (Sum of Lines 9, 10, and 11)			S		
13. Reason for assessment:					
14. Signature of preparer				15. Date	

Form **5734** (Rev. 1-91)

Cat. No. 27725M

Department of the Treasury - Internal Revenue Service
U.S. Government Printing Office: 1991 - 517-016-802

Exhibit A 1 of 2

Form 5734, Non-Master File Assessment Voucher

Reference IRM 7369

Non-Master File Assessment Voucher

1. Name and address (1)		2. Document location (initials, date)	
		3. Taxpayer identification number (TIN) (2)	
4. Type of tax (3)	5. Form number (4)	6. Period (5)	7. MFT rate (6)
8. Tax		9. Abstract number (7)	
10. Penalty	IRC Code Section or Type of Penalty (8)	Trans. Code	Amount (9)
11. Interest		12. Total (Sum of Lines 9, 10, and 11)	
		\$ (10)	
13. Reason for assessment (11)			
14. Signature of preparer (12)		15. Date (13)	

Form **5734** (Rev. 1-81)

Cat. No. 27728M

Department of the Treasury - Internal Revenue Service
U.S. Government Printing Office: 1981 - 517-655-0000

Review of Form 5734 for Civil Penalty Assessments

- 1 Full name and address of taxpayer.
- 2 TIN of person against whom the penalty is to be assessed.
- 3 "Civil Penalty".
- 4 Form number of the appropriate return.
- 5 Period to be assessed.
- 6 Examination penalties--

MFT 20	IRC 6700, 6701, 6702
MFT 28	IRC 6652(a)(b)
EP penalties--	
MFT 74	IRC 6652, 6690, 6692
MFT 76	IRC 6651
MFT 29	IRC 6693
- 7 Abstract Number - Refer to Exhibit 500-7 of IRM 7530, Chapter 500 for abstract numbers.
- 8 Accounted to be assessed.
- 10 Accounted to be assessed (EP/EO Support and Processing personnel will complete this item, if missing).
- 11 "Examination Request" or other appropriate statement. Forms prepared by EP must include the plan year ending and the three digit plan number; the File Folder Number should be in parentheses.
- 12 Signature and office location, including examination group number, and the initials of the reviewer.
- 13 Date prepared.

Exhibit 1252

FOIA Request for IRS Form 2162
Notice of Assessment

- A. This will usually come as a computer printout as it is stored in the computer.
1. Under Title 5 USC 555(a) they are to send you the information no matter how it is stored.
 2. They will often tell us that there is no paper form.
 3. Then send us a computer printout version of this 2162 Form!

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # acct

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years: yrs
4. BACKGROUND: See Exhibit A - 26 USC 6302, Exhibit B - 26 CFR 301.6203.1, Exhibit C - IRM 3.17.63.14.4 and 3.17.63.14.7, and Exhibit D - 3(17)(63)(14).1(2).
5. Please send me the Notice of Assessment Form or Forms 2162.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Sec. 6202. Establishment by regulations of mode or time of assessment

-STATUTE-

If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary may establish the same by regulations.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 struck out 'or his delegate' after 'Secretary'.

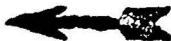
-CROSS-

CROSS REFERENCES

Rules and regulations for collection of taxes, see section 7805 of this title.

-CITE-

26 USC Sec. 6203



01/05/99

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 63 - ASSESSMENT
Subchapter A - In General

-HEAD-

Sec. 6203. Method of assessment

-STATUTE-

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.

-SOURCE-

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

-MISC1-

AMENDMENTS

1976 - Pub. L. 94-455 struck out 'or his delegate' after 'Secretary' wherever appearing.

-SECREP-

Exhibit A 2 of 4

code of federal regulations

Internal Revenue

26

PARTS 300 TO 499

Revised as of April 1, 1999

CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF APRIL 1, 1999

With Ancillaries

Published by
the Office of the Federal Register
National Archives and Records
Administration

as a Special Edition of
the Federal Register



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 without 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

3.17.63.13.10 (10-01-2000)

Account 5604 Disbursement--Samoa (PSC Only)

1. This account records the disbursement of Federal Withholding taxes for U.S. Military and Federal employees according to the U.S. Treaty with Samoa.
2. The Treasury Account Symbol for disbursements for this account is 20X6741.

3.17.63.14 (10-01-2000)

Account Series 6000 Assessments and Settlements

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

3.17.63.14.1 (10-01-2000)

Account 6001 Installment Agreement Liability

1. This account has been established for future use.
2. This account sets up the liability for Installment Agreement User Fees when these fees are established on the master file.

3.17.63.14.2 (10-01-2000)

Account 6010 Arbitrage Revenue (Ogden Only)

1. This account is used to summarize the total amount of assessments of non-tax revenue money. The balance of this account represents total non-revenue assessments for the year.
2. These assessments will not appear on the Summary Record of Assessments (Assessment Certificate).

3.17.63.14.3 (10-01-2000)

Account 6011 Arbitrage Penalty Revenue (Ogden Only)

1. This account is used to summarize the total amounts of assessments of non-tax revenue penalties. The balance of this account represents total non-tax revenue penalty assessments for the year.
2. These penalty assessments will not be recorded on the Summary Record of Assessments (Assessment Certificate).

3.17.63.14.4 (10-01-2000)

Account 6110 Withholding Tax Assessments--Principal

1. This account is used to summarize the total amounts of assessments of tax class 1 **Principal** as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 **Principal** assessments for the year.
2. All **principal** assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity.
3. Total tax class 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.5 (10-01-2000)

Account 6111 Withholding Tax Assessments--Penalty

1. This account is used to summarize the total amounts of assessments of tax class 1 **Penalties** as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 **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 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.6 (10-01-2000)

Account 6112 Withholding Tax Assessments--Interest

1. This account is used to summarize the total amounts of assessments of tax class 1 **Interest** as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 **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 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.

3.17.63.14.7 (10-01-2000)

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.

3.17.63.14.8 (10-01-2000)

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.

3.17.63.14.9 (10-01-2000)

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.

Exhibit c 2 of 2

... 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 22C 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, uncertified applications, etc.

FOIA request for the names of the Assessment Officer

A. How can you verify the Assessment date that the IRS uses on their form 4340 and many other documents if you do not have access to that actual Assessment?

1. How can I accept their word or trust them about anything when they have been caught lying to Congress and the GAO?

B. Who performed the actual Assessment?

C. What was the actual form that they originally signed?

D. Where is that Form now?

E. IRS manuals for the year 2001 still show the 23C as a current form in use with the service so where is the 23C?

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # acct

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years: yrs
4. BACKGROUND: See Exhibit A - 301.6203, and Exhibit B - IRM 3(17)(63)(14).1, "Account 6110 Tax Assessments."
5. Please send me the full name, or names, and employee number, or numbers, of all assessment officers that worked at the _____ Service Center for above mentioned years.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

The FOIA Summary

- A. Assessment, Assessment, Assessment where is the Assessment is the magic question.
- B. If you start reading the case law concerning assessments you will soon realize that most of those individuals involved with these cases were using some “IDIOT LEGAL ARGUMENT.” All of a sudden they have a last minute change of heart and then they start asking for the assessment, after the fact.
 - 1. Few if any of them have ever sent in a FOIA request until after the fact or they demand an assessment after their trial has started. TOO LATE!
- C. When you get that first letter from the IRS wanting to know where your return is or some other letter to that effect your court case has just started under our Administrative Equity System.
 - 1. If you wind up in an actual Federal Courtroom that is noting but a show place where they perform the ceremonial duties of the Administrative Equity Process.
 - 2. Those people engaged to perform the ceremonial functions in the Federal System reap rewards both financial and status. It boosts their ego.
- D. We have a number of people who contact us that have paid thousands for some 20, 30, or 50 page statement from some group that is going to take care of their IRS problems. They use the same letter for everyone.
 - 1. Very seldom does that group ever teach anyone about the FOIA administrative process. In fact they often discourage people from doing FOIA's.
- E. When it comes to the Assessment process there are a number of FOIA's requests that you should send in concerning this one area.
- F. This is one important area to develop to it's fullest. And this is one area the IRS hates to deal with. They even going so far as to teach Disclosure Officers to lie and to try to deceive you.
 - 1. The IRS, U.S. Attorney's office, and the Federal Courts will go to no ends to try to force false documents down your throat calling upon all their Magic tricks.

- G. In studying their own Regulation and manuals, we find several places that clearly lay out the correct Assessment process which shows the Forms necessary for a proper Assessment.
- H. The enclosed FOIA requests should get you started. As you read about and study this Assessment process you will find many other documents for which you will want to do additional requests.
- I. We are going to give you just some of the basic FOIA requests. How far you wish to go is up to you.
- J. If you have been filing returns and self-assessing yourself, then the IRS has no need to assess you, unless you haven't sent in their fair share. Then they might do an alleged assessment against you.

