

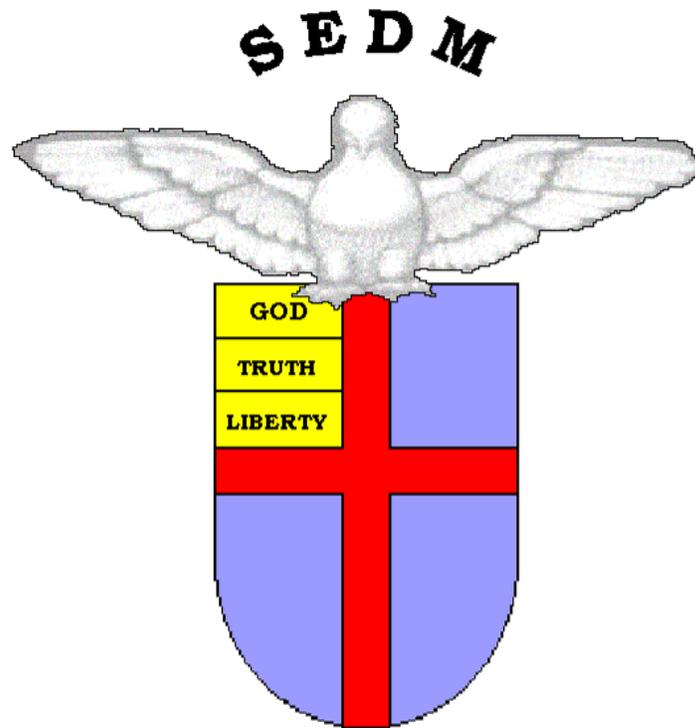
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RELLEVE

## God's Purpose for Government

The purpose of government is to restrain the lawless (1 Tim. 1:9), to protect the law-abiding against the violence of the wicked (Acts 25:11), and to secure to each individual a freedom of "conscience void of offence" toward God and man. The wisdom of God in making such a provision is very evident when we remember that "the whole earth lieth in wickedness" (1 John 5:19).

We see something very evident, even without turning to the Bible, to see what God thinks of "this present evil world" and that without some restraining power the righteous would be on this earth as sheep at the mercy of the hungry wolves, as we see in countries where anarchy and lawlessness run riot.

The goodness of God toward man is apparent in the twofold provision made for man's government, care, and protection:

1. Spiritual, through the church; and
2. Material, through the state.

The power of the church as well as the power of civil government is ordained of God and is very evident by reading the Scriptures and the writings of inspired men.

Writing to the Romans, Paul teaches, "there is no power but of God, whosoever resisteth the power resisteth the ordinance of God" (Romans 13: 1-2). It has been said that "order is Heaven's first law", "God is not the author of confusion, but of peace." (1 Cor. 14:33).

From 1787 until 1933 we had such a system of church and civil government in America. Then on March 9, 1933, FDR declared a National Emergency (see Senate Report 93-549) and removed us, through deceit, from our substance-based, gold and silver economy, thus putting us in disobedience of God's financial laws. (Read Deuteronomy)

Then in 1938, when Chief Justice Louis Brandies handed down the Erie Railroad vs Thompkins Supreme Court decision, our Christian based Common law legal system, *which, until 1938, required having real damage against a human being to have a crime*, flip flopped. The decision makes the STATE the victim so that now any local, state, or Federal government can make a crime out of anything they wish. Today we have thousands of victimless crimes that all carry jail time. The law enforcement industry is the fastest growing industry in America today, with no end in sight. Almost everyone in America commits federal felony crimes every day and are unaware until they are charged with a 'crime'.

Today we have government trying to legislate morality. Today we have government dumping drugs into the cities of America so they can propose even more laws for non-violent crimes for more control over the law-abiding people.

Today the churches of America remain silent and take their marching orders from the State, rather than GOD!!!!

Shall we compare:

God's law: 10 Commandments.

Versus

Man's law: Thousands of laws that most people have never seen nor read!

For more information contact VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221.

You may wish to order:

Senate Report 93-549, Erie RR vs. Thompkins, Briso v. Lahue, International Banking Syndicate, America's Jury Handbook, Wayne Bentson's "Internal Revenue Service- Fact or Fiction?" (\$12.00 each) or "The Chaplains and Clergy of the Revolution" (\$25).

*Referenced to  
in  
Supreme  
Court  
Cases*

# THE LAW OF NATIONS OR THE PRINCIPLES OF NATURAL LAW

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

By E. DE Vattel

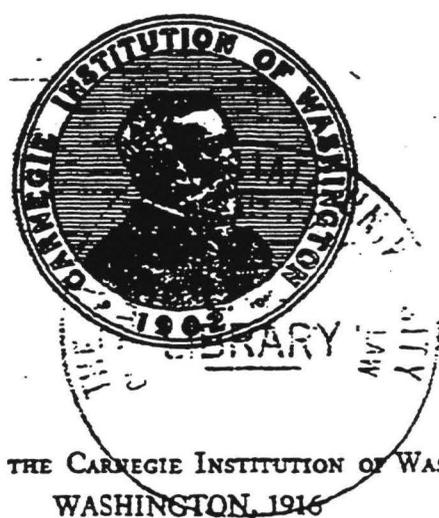
“For there is nothing on earth more acceptable to  
that Supreme Deity who rules over this whole world than  
the councils and assemblages of men bound together by  
law, which are called States.”  
—Cicero, *Somnium Scipionis*.

VOLUME THREE

TRANSLATION OF THE EDITION OF 1758

By CHARLES G. FENWICK

WITH AN INTRODUCTION BY ALBERT DE LAPRADELLE



JX  
63  
.C5  
No. 4  
V3

PUBLISHED BY THE CARNEGIE INSTITUTION OF WASHINGTON  
WASHINGTON, 1916

For a copy of this great work send 35<sup>00</sup>  
to VIP, Box 463, Owensville, Ohio, 45160  
513-641-2221

# EMER DE VATTEL.

## LIFE.

A portrait,<sup>1</sup> some letters,<sup>2</sup> the brief testimony of a few contemporaries, that is all those who wish to know the man as well as the author will find of Vattel, a writer who has been so discreet as to leave little, except his work, for history to seize upon.

Emer (or Emmerich) de Vattel was born at Couvet, in the principality of Neuchâtel, Switzerland, on April 25, 1714. His father, David de Vattel, was a clergyman of the Reformed Church. His mother, Marie de Montmollin, was the daughter of a councilor of state and treasurer general of His Majesty the King of Prussia in the principality of Neuchâtel. His uncle, Emer de Montmollin, had upheld the right of Frederick I of Prussia to succeed to this principality and had thereby won the title of Chancellor; he had also taken part in several important negotiations and had been in close touch with the scholars of Germany, of England, and of France.

## V.

### VALUE OF THE WORK.

Published, translated, quoted again and again, Vattel has certainly won a success equal to that of Grotius, perhaps even greater. Between the two minds, however, no comparison is possible. Grotius possesses genius; Vattel has talent.

## PREFACE.

The Law of Nations, great and important a subject as it is, has thus far not received the attention which it merits. The majority of men, indeed, have but vague, superficial, and often even mistaken ideas regarding it. The great body of writers, including even authors of repute, understand by the term Law of Nations merely certain rules and certain customs which are accepted among Nations and have become binding upon them by reason of their mutual consent. Such a view restricts within very narrow limits a law of wide extent and of great importance to the human race, and at the same time degrades its position by misconceiving its true origin.

There is no doubt of the existence of a natural Law of Nations, inasmuch as the Law of Nature is no less binding upon States, where men are united in a political society, than it is upon the individuals themselves. Now an exact knowledge of this law can not be had by a mere understanding of what the Law of Nature prescribes for individual persons. When a law is applied to different subjects it must be applied in a manner suited to the nature of each subject. Hence it follows that the natural Law of Nations is a special science which consists in a just and reasonable application of the Law of Nature to the affairs and the conduct of Nations and of sovereigns. All those treatises, therefore, which confuse the Law of Nations with the ordinary natural law must fail to convey a distinct idea and a thorough knowledge of the sacred Law of Nations.

In the United States, a Nation still more enamored of liberty, its success was even greater. From 1758 to 1776 Grotius, Pufendorf, and Burlamaqui were read, studied, and commented upon in the English colonies of America; but Vattel, at that time, seems to have been unknown to them. In 1773, the Law of Nations was taught at King's College (now Columbia University). In 1774 Adams, and in 1775 Hamilton, quote or praise Grotius, Pufendorf, and Locke; neither mentions Vattel. But the War of Independence gave the United Colonies the new name of States. A hard task engaged the American people, who, by the study of the Law of Nature and of Nations, were preparing themselves for the great work of independence. Anxious to build up solid foundations, their statesmen turned to European publicists. Charles W. F. Dumas, a Swiss living in Holland, and an ardent republican, re-re-

Vattel with the United States in mind, brought out a new edition with notes inspired by recent events, and sent three copies of it to Franklin. Vattel's reply, Franklin, came at the right time:

"It came to us in good season, when the circumstances of a rising State made it necessary frequently to consult the Law of Nations." (Franklin to Dumas, 1775.)<sup>1</sup>

→ The fathers of independence soon felt that they were in accord with the ideas of Vattel. They were pleased with him for praising "the moderation of the English Puritans, who first established themselves in New England after buying from the Indians the land that they wished to occupy. Although their liberalism, progressively extended to include religious freedom, much exceeded that of England, and, consequently, that of Vattel, they found in the Swiss writer all their maxims of political liberty: the right of a people to separate themselves from a State of which they are a part (I, §§ 201, 202); the obligation of the Nation to assure happiness to all as an end of the State; an obligation which they themselves inscribed in the Constitution; finally the recommendation of those confederations of Republics to which, taught by Vattel and Rousseau that there they would find a sure guaranty of rest and peace, the United States was, from 1778 to 1787, to trust its fortunes.

→ From 1776 to 1783, the more the United States progressed, the greater became Vattel's influence. In 1780 his *Law of Nations* was a classic, a *text-book* in the universities.<sup>2</sup>

send 15<sup>¢</sup> to UIP Box 463, Owensville, Ohio, 45760  
for a copy of this report

## FOREWORD

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Since March 9, 1933, the United States has been in a state of declared national emergency. In fact, there are now in effect four presidentially proclaimed states of national emergency: In addition to the national emergency declared by President Roosevelt in 1933, there are also the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, and the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971.

These proclamations give force to 470 provisions of Federal law. These hundreds of statutes delegate to the President extraordinary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing manners. This vast range of powers, taken together, confer enough authority to rule the country without reference to normal constitutional processes.

Under the powers delegated by these statutes, the President may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communication; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways, control the lives of all American citizens.

With the melting of the cold war—the developing détente with the Soviet Union and China, the stable truce of over 20 years duration between North and South Korea, and the end of U.S. involvement in the war in Indochina—there is no present need for the United States Government to continue to function under emergency conditions.

The Special Committee on the Termination of the National Emergency was created<sup>1</sup> to examine the consequences of terminating the declared states of national emergency that now prevail; to recommend what steps the Congress should take to ensure that the termination can be accomplished without adverse effect upon the necessary tasks of governing; and, also, to recommend ways in which the United States can meet future emergency situations with speed and effectiveness but without relinquishment of congressional oversight and control.

In accordance with this mandate, the Special Committee—in conjunction with the Executive branch, expert constitutional authorities, as well as former high officials of this Government—is now engaged

<sup>1</sup> S. Res. 9, 93d Cong., 1st Sess.

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EMERGENCY POWERS STATUTES:

PROVISIONS OF FEDERAL LAW  
NOW IN EFFECT DELEGATING TO THE  
EXECUTIVE EXTRAORDINARY AUTHORITY  
IN TIME OF NATIONAL EMERGENCY

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November 19, 1973.—Ordered to be printed

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Mr. MATHIAS (for Mr. CHURCH) as co-chairman of the Special Committee on the Termination of the National Emergency, submitted the following

REPORT

[Pursuant to S. Res. 9, 93d Cong.]

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INTRODUCTION

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A—A BRIEF HISTORICAL SKETCH OF THE ORIGINS  
OF EMERGENCY POWERS NOW IN FORCE

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. The problem of how a constitutional democracy reacts to great crises, however, far antedates the Great Depression. As a philosophical issue, its origins reach back to the Greek city-states and the Roman Republic. And, in the United States, actions taken by the Government in times of great crises have—from, at least, the Civil War—in important ways shaped the present phenomenon of a permanent state of national emergency.

American political theory of emergency government was derived and enlarged from John Locke, the English political-philosopher whose thought influenced the authors of the Constitution. Locke argued that the threat of national crisis—unforeseen, sudden, and potentially catastrophic—required the creation of broad executive

(1)

# The Administrative Equity (*Injustice*) System

*The Common Law Court System has been dead since 1940.*

In 1934, Congress adopted the Federal Rules Enabling Act, which conferred to the Supreme Court the power to adopt rules of procedure for the Federal District Courts. These new rules were put into effect in 1938. Prior to 1938, the Federal Courts had 2 "sides" – LAW and EQUITY. Different rules of procedure governed each side. (*Order our Title 28, 1940 Rules of Court*)

EQUITY rules were uniform throughout the country and followed the rules of the English Court of Chancery. The Equity Rules of Federal Procedure of 1912 were developed as the uniform rules. On the "Common LAW", or IN-LAW side of the federal district courts, the procedure was that of the state in which the federal court sat. This general policy of conformity to state procedure were set forth in the Conformity Acts which were part of the Judiciary Act of 1789 and which kept the Federal Judiciary in check under the common law of the states.

In 1938, Equity rules and "in Law" rules were merged; with the Equity rules winning more influence by the following features:

1. A greatly simplified method of pleading was adopted, requiring little more than broad and vague statements of claim and defense with hearsay allowed.
2. Law and Equity were "merged" in that the same procedural rules governed proceedings both "legal" and "equitable", and in that both "legal" and "equitable" claims and defenses might be asserted in the same action.
3. Comprehensive discovery procedures were adopted.
4. There was a provision for pre-trial conference, intended to supplant the pleadings as the principal means of defining the issues in question.
5. Broad rules of permissive joinder of parties and claims were adopted.

On March 9<sup>th</sup>, 1933, FDR declared a National Emergency. (Title 12 USC Sec. 95a). This was nothing more than a major, designed, takeover of American Banks by the Federal Reserve System, a private syndicate of European Banks who set themselves up as the Joint Class A stockholders with but one goal to rob the wealth of the American people.

Due to this declaration, private ownership of gold was abolished and made a crime and our substance based monetary system based on Biblical principals was abolished. We must realize that the most important function of the BAR (British Accredited Registry) is to protect the International banking industry.

Then, in 1938, the Supreme Court guided by the Rothchild Bank Agent in America, Chief Justice Louis Brandeis, handed down *Erie Railroad Co. Vs. Thompkins*, 304 U.S. 64 to ensure the American people could never again regain their liberty under the organic state and federal constitutions.

With our substance-based economy destroyed in 1933, we still had a legal system based on a division of Common Law and Equity. Under the Common Law there had to be an Affidavit of Probable Cause with an actual injured party (*Corpus delicti*) in order to have a crime.

What the *Erie* case did in reality was to completely flip flop our legal system and make the federal and state governments the injured parties. This exploded the laws and in the process made civil infractions criminal thus imprisoning hundreds of thousands of people who under the old common law prior to 1938 would have never suffered any of these injustices.

We have seen the explosion of thousands of new laws as every government agency gets into the "ACT". Making the law enforcement industry the fastest growing industry in America today with but one goal and that is to rob the wealth from and to lock up as many Americans as fast as possible and ruin as many lives as possible.

By Pastor Richard William Standing.

For a literature list of information dealing with these issues send a SASE to:  
VIP, Equity, Box 463, Owensville, Ohio 45160

Things that were used to be common law are now common law  
The "state" is supreme over us

who falsified my file & for what purpose?

[The APL was] a nationwide network of "agents," [with] badges that read "American Protective League—Secret Service." By war's end they numbered 250,000. They spied on neighbors, fellow workers, office-mates [etc.].

The League in fact constituted a rambunctious, unruly *posse comitatus* on an unprecedented national scale. Its agents bugged, burglarized, slandered, and illegally arrested other Americans.

They opened mail, intercepted telegrams, served as *agent provocateurs*, and were the chief commandos in a series of extralegal and often violent "slacker raids" against supposed draft evaders in 1918.

[The APL was, according to one historian,] "a force for outrageous vigilantism blessed with the seal and sanction of the federal government."

—D.M. KENNEDY

Wilsonian Democracy, which had no ostensible reason for existence other than "neutral rights," was thus an ad hoc terror state in 1917–1918. Each local council of defense was actually a draft board plus a vigilante committee, and just as Crowder moved to draft the nation in early 1918, so Attorney-General Gregory asked for the power to incorporate his some 250,000 American Protective League agents into the Justice Department, plus a new Sedition Law which would empower his agents "to reach the individual casual or impulsive disloyal utterance." (D.M. Kennedy)

Gregory, in other words, was asking for a legalized KGB or Gestapo, which would have the power to arrest anyone for any reason, and thus prevent the "individual disloyal utterances;" with absolute power, Gregory could do away with free speech as such. There would no longer be a need for the illegal vigilante groups, and Gregory's APL was merely the main federal vigilante committee, for each council or sub-unit had its own vigilante committee, the "loyalty Leagues." (D.M. Kennedy)

The APL was in fact the *town* vigilante group, medium-sized towns, while the American Defense Society was a *city* vigilante group, the ADS having grown out of the American Vigilante Patrol, formed "to put an end to sceditious street oratory." The Gompers-AFL had its "Alliance for Labor and Democracy," used to crush non-AFL groups, as one of the main arms of Wilson's national terror; the army and the Gompers-AFL, the "vanguard of the proletariat." (Peterson and Fite)

The National Security League, NSL, 1914, was the militant arm of the Roosevelt Party, which organized officer-cadre for the coming war, the "Plattsburgh" idea. There were any number of such vigilante groups, the Home Defense League, the American Anti-Anarchy Association, the Terrible Threateners, the Anti-Yellow Dog League, and, of course, the Boy Spies of America, without which no total state would feel itself complete,—all linked to various councils of defense, local, state, national. (Peterson and Fite)

X (4) The Alien and Sedition Acts of 1917–1918

[On April 2, 1917, Webb of North Carolina and Culbertson of Texas] moved quickly to arm the President with the tools of "stern repression," for which he had called in his war address. . . . Wilson burned with fervor to possess censorship powers.

The Espionage Act of June 5th, 1917, furnished the government with ample instrumentalities for the suppression of those who opposed the war.

[The Sedition Act of May 16, 1918] prohibited among other new offenses, "any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution . . . or the flag . . . or the uniform of the Army or Navy," or any language that might bring those institutions "into contempt, scorn, contumely, or disrepute."

—D.M. KENNEDY

Wilson, in the "Trading-with-the-Enemy Act" of October of 1917 had been given international censorship and the censorship of the foreign-language press. With the Espionage and Sedition Acts, and with the later Alien Acts, Wilson ended free speech in the USA. This was nothing but an updated version of the Alien and Sedition Acts of 1798, and these acts would *all* be sanctioned by the Supreme Court, including the "pragmatists," so that there was *no Constitution*, 1917–1920.

Wilson, who would in *December of 1919*, call for "a peacetime sedition act to replace the wartime amendment, scheduled to expire in 1921," had in fact backed the Sedition Act against a "courts-martial bill," which would have brought the citizenry of the USA under the jurisdiction of the US Army, a proper law for Wilsonian Democracy. Wilson was *personally* more ruthless than Gregory himself, often demanding that this or that dissenter be punished, "be given the 3rd degree," etc. (See D.M. Kennedy)

(5) Wilson Confiscated the Mails, All of It

The Espionage Act of June 1917 authorized the Postmaster General to ban from the mails any material violating the Act, or advocating treason, insurrection, or forcible resistance to any law of the United States.

Postmaster General . . . Burleson, . . . a Texan, a follower of William Jennings Bryan, . . . had begun to withdraw mailing privileges from various journals even before the Act became law, [but] in the summer of 1917 he revealed the full dimensions of his campaign against radicals, pacifists and the foreign-born.

Burleson began ruthlessly to strip second-class mailings privileges from journals that dared, as he said in October, "to impugn the motives of the government and thus encourage insubordination."

Burleson added, he would deal severely with publications claiming "that the government is controlled by Wall Street or munition manufacturers, or any other special interests," or papers criticizing "improperly our Allies."

—D.M. KENNEDY

Wilson-Burleson simply confiscated the mails of the USA; they put finish to the free press, which included the foreign-language press. Burleson, who banned the *Nation* for criticizing Gompers, and a work of Veblen which was being circulated by *Wilson's ministers*, by Creel, the Minister of Propaganda, was a great Yahoo, whom Wilson thought amusing.

Burleson clarified his theory of censorship: When people "began to say that the Government got into the war wrong, that the war is for the wrong purposes, or anything that will impugn the motives of the Government for going into the war," then it would be banned from the mails. Burleson in fact simply banned what he would from the mails.

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6

Handwritten notes in left margin: "Amplified Power", "Unsubstantiated Power", "Power".

Excuse Text

Due Process  
Constitutional  
Procedural

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FIRST EDITION

*Designed by Elina D. Nudelman*

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## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### ORGANIZATION AND FUNCTION

This material supersedes the statements on organization and functions published at 37 FR 20961-20990, 38 FR 23341 and 23342, and 38 FR 30011 and 30012.

Dated: March 25, 1974.

ISSUED BY DONALD C. ALEXANDER,  
Commissioner of Internal Revenue

#### 1100 ORGANIZATION AND STAFFING

#### 1110 ORGANIZATION AND FUNCTIONS OF THE INTERNAL REVENUE SERVICE

#### SEC. 1111 Establishment of the Internal Revenue Service.

##### SEC. 1111.1 Mission.

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to maintain the highest degree of public confidence in the integrity and efficiency of the Service. This includes communicating the requirements of the law to the public, determining the extent of compliance and causes of non-compliance, and doing all things needful to a proper enforcement of the law.

##### SEC. 1111.2 Organic Act.

(1) The Office of the Commissioner of Internal Revenue was established by an act of Congress (12 Stat. 432) on July 1, 1862, and the first Commissioner of Internal Revenue took office on July 17, 1862.

(2) The act of July 1 provided:

... That, for the purpose of superintending the collection of internal duties, stamp dues, licenses, or taxes imposed by this Act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the Treasury Department to be called the Office of the Commissioner of the Internal Revenue . . . Commissioner of Internal Revenue . . . shall be charged, and hereby is charged, under the direction of the Secretary of the Treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes which may be necessary to carry this Act into effect, and with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide proper and sufficient stamps or dies for expressing and denoting the several

stamp duties, or the amount thereof in the case of percentage duties, imposed by this Act, and to alter and renew or replace such stamps from time to time, as occasion shall require . . ."

(3) By common parlance and understanding of the time, an office of the importance of the Office of Commissioner of Internal Revenue was a bureau. The Secretary of the Treasury in his report at the close of the calendar year 1862 stated that "The Bureau of Internal Revenue has been organized under the Act of the last session . . ." Also it can be seen that Congress had intended to establish a Bureau of Internal Revenue, or thought they had, from the act of March 3, 1863, in which provision was made for the President to appoint with Senate confirmation a Deputy Commissioner of Internal Revenue "who shall be charged with such duties in the bureau of internal revenue as may be prescribed by the Secretary of the Treasury, or as may be required by law, and who shall act as Commissioner of internal revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to the office of internal revenue." In other words, "the office of internal revenue" was "the bureau of internal revenue," and the act of July 1, 1862 is the organic act of today's Internal Revenue Service.

##### SEC. 1111.3 History

##### SEC. 1111.31 Internal taxation.

Madison's Notes on the Constitutional Convention revealed clearly that the framers of the Constitution believed for sometime that the principal, if not sole, support of the new Federal Government would be derived from customs duties and taxes connected with shipping and importations. Internal taxation would not be resorted to except infrequently, and for special reasons. The first resort to internal taxation, the enactment of internal revenue laws in 1791 and in the following 10 years, was occasioned by the exigencies of the public credit. These first laws were reenacted for the period 1813-1817 when the effects of the war of 1812 caused Congress to resort to internal taxation. From 1818 to 1861, however, the United States had no internal revenue laws and the Federal Government was supported by the revenue from import duties and the proceeds from the sale of public lands. In 1862 Congress once more levied internal revenue taxes. This time the establishment of an internal revenue system, not exclusively dependent upon the supplies of foreign commerce, was permanent.

##### SEC. 1111.32 Background and evolution of present organization.

(1) Before the establishment of the Office of Commissioner of Internal Revenue, taxes were collected by "Supervisors" of collection districts who were appointed by the President, subject to Senate confirmation. These Supervisors work under the direct control of the Treasury Department. The Revenue Act of 1862 provided, for the first time, for a "Collector" and a "Principal Assessor" for each collection district, and for deputy collectors and assistant assessors. Collectors and Assessors appear to be the original forerunners of the twentieth century Collectors of Internal Revenue and Internal Revenue Agents in Charge.

(2) Since 1862, the Internal Revenue Service has undergone a period of steady growth as the means for financing Government operations shifted from the levying of import duties to internal taxation. Its expansion received considerable impetus in 1913 with the ratification of the Sixteenth Amendment to the Constitution under which Congress received constitutional authority to levy taxes on the income of individuals and corporations. With the enactment of income tax laws the work of the Revenue Service began to take on a highly technical character.

(3) From the World War I period through 1951, the basic organizational structure of the Internal Revenue Service remained essentially unchanged even though there were marked increases in the number of taxpayers serviced, revenue receipts, employees and the overall workload. The Service was organized in Washington and the field, on a program of "type-of-tax" basis, with jurisdictionally separate organizations or "Units", charged with the administration of different types of taxes.

##### SEC. 1111.4 Reorganization Plan No. 1 of 1952 and other changes.

(1) On January 14, 1952, the President of the United States submitted to Congress Reorganization Plan No. 1 of 1952, calling for a comprehensive reorganization of the Internal Revenue Service. On March 13, 1952, the last motion to defeat the plan was voted down in the Senate, and the Plan became effective on March 15, 1952.

(2) Reorganization Plan No. 1 of 1952 brought about four basic changes in the Internal Revenue Service:

(a) The organization of the Service along functional lines—i.e., operations, administration, technical, planning, and inspection;

(emphasis added)

## 3

**REIGN OF ERROR***IRS Secret History, Volume I*

Within the next five to ten years we will have a totally redesigned tax administration system. Paper tax returns can largely be a thing of the past.

—1984 IRS annual report

**BUDGET BUST-UP**

On March 14, 1996, the Treasury Department (of which the IRS is a part) conceded to Congress that after spending well over \$4 billion over five years, the IRS's most recent effort to upgrade its computer systems was "badly off track." Four months later, in June 1996, the House Appropriations Subcommittee approved deep spending cuts at the IRS, calling for heavy layoffs of two thousand employees assigned to what the *Washington Post* charitably called the IRS's "troubled computer modernization project."

Representative Jim Lightfoot (Republican-Iowa) expressed the frustration of millions of taxpayers, even a few employed by the IRS, when he blasted IRS senior management for badly bungling its highly touted computer modernization. "The bottom line is that I'm fed up with excuses," Congressman Lightfoot thundered indignantly. "If you can't get it right in eight years, you might as well forget about it!"

In his capacity as chairman of the House Treasury, Postal Service,

and General Government Subcommittee, Lightfoot had every reason to be upset. Among a handful of elected officials, he asserts oversight of the otherwise all-powerful IRS. This power gives Congressman Lightfoot a substantial degree of influence over the fate of an agency that seems to have drastically lost its way. By 1996 IRS critics were finally realizing that the systematic malaise affecting the computer modernization program symptomized a larger affliction.

Under Lightfoot's proposed bill, Congress would slash funding for the IRS by a staggering 11 percent, including a resounding reduction of \$270 million targeted specifically at the mismanaged computer modernization project. This represented a cut of nearly half the \$700 million appropriated for the 1996 fiscal year. The sheer size and broad scope of this cut, aimed not merely at the faltering computerization efforts but at the agency as a whole, "appeared to shock agency officials," the *Washington Post* reported. In the ultimate slap in the face to senior IRS management, Lightfoot's bill called for putting the Defense Department in charge of writing contracts for all future IRS computer modernization efforts. The message was clear: You screwed up guys, big-time. We can't even trust you to buy your own computers.

"The computer modernization project found few defenders yesterday," the *Washington Post* concluded. "Critics say the project has been poorly managed and does not link the new technology to the latest tax collection task." Sounding perhaps like an information technology specialist in business, one IRS computer expert (who preferred to remain anonymous) put it to me this way: "We lost sight of our mission. We thought we were supposed to be on the leading edge of technology. But we have no business being on the leading edge. We have no money for that. We need to be able to be flexible enough to adapt to new discoveries, not to discover new ways of doing business."

Rather than maintaining itself on "the leading edge of technology," Don Curtis claimed that the IRS hemorrhaged along on "the bleeding edge of technology." The IRS spent the better part of the eighties convincing itself and Congress that it could march proudly into the twenty-first century using innovative and emerging tech-

nologies to process the millions of tax returns it receives every year. But amid all the heady hubbub and buzzwords like "image recognition" and "network linkage," the IRS forgot—as it has a lamentable tendency to do, and not unlike large corporate bureaucracies—that its basic mission is to collect money from taxpayers. It failed to ask taxpayers, arguably its customers, what they were ready or willing to accept in new ways of getting their money to the IRS. It failed to consider the uncertainties that go along with developing new technologies. It ignored its own history. In particular, it ignored recent history. It ignored the lessons of the Nixon years. It ignored the nearly fatal Filing Season from Hell.

### REMEMBRANCE OF 'THINGS PAST'

TAX RETURN BACKLOG GROWS IN WAKE OF COMPUTER WOES  
TAXING TALES OF THE IRS  
BEWARE THE IRS COMPUTER: NOT EVEN A BOY SCOUT IS SAFE!

—*Philadelphia Inquirer*, Spring 1985

On April 26, 1985, a janitor cleaning up the remains of an unusually chaotic and frenetic Tax Day in Philadelphia found envelopes containing unprocessed tax returns (many with undeposited checks still attached) in a trash barrel on the loading dock of the IRS's sprawling Philadelphia Service Center. After he turned this embarrassing find over to his supervisor, a desperate weekend-long search ensued of all trash barrels at the center. The search turned up, much to center management's horror, 109 envelopes still containing unprocessed tax information, all of which nearly ended up as Philly landfill.

Out of those recovered 109 envelopes, ninety-four contained checks made out to the federal government, totaling \$333,440. Thirty-six contained unprocessed 1040s. Twenty-four contained estimated tax payments. On April 30—just four days after the discovery of the first cache of buried treasure—an IRS internal auditor pulled at random three brown envelopes from yet another trash can inside the center. One of the three contained a check made out to the IRS

for \$2,500. The General Accounting Office (GAO) would later report that IRS officials found between fifty and a hundred unprocessed tax returns stuffed in a wastebasket in a women's restroom in the Philadelphia Service Center.

"THE NEW IRS COMPUTER SYSTEM CONTINUES ITS REIGN OF ERROR," trumpeted a headline in the *Philadelphia Inquirer*; which disclosed that in January 1985, the same apparently dysfunctional center had erroneously seized the bank account of a Boy Scout Council in rural Pennsylvania. The Boy Scout troop's missing money was just one of ten thousand accounts, scattered throughout the mid-Atlantic region, adversely affected by an IRS employee's failure to properly post a computer tape reflecting tax payments withheld during the 1984 tax year. These reflected some \$300 million prepaid to the government. The growing backlog of unprocessed returns clogging IRS service centers across the country threatened to burst badly strained digital dams. Though the scope and depth of the backlogs varied from region to region (with Pennsylvania by far the worst hit), few regions remained utterly unscathed by the bugs.

Even on the already dismal PR front, there were nightmares and horrors to come. On May 6, 1985, the IRS disclosed that a supervisor at the Austin, Texas, service center had ordered the destruction of several thousand letters from corporations requesting adjustments or protesting errors in their tax bills. Service center employees anonymously quoted in the *Wall Street Journal* blamed "a desperate attempt to reduce a rising backlog of complaints and to maintain a high production rating."

There were plenty of candidates to lay blame for the Great Tax Meltdown of 1985: the data processing executives at the national office who arrogantly yanked a woefully antiquated yet still functioning system and replaced it with an inadequately tested new one; a tightfisted Congress that for years had put off IRS requests for funds to update its data processing facilities, based on mounting concerns that an all-electronic system might not include adequate safeguards to maintain the security of taxpayer information; the IRS officials who failed to allay those concerns and neglected to address them or even acknowledge their legitimacy—even after having been put on notice that security issues were paramount not only on

## Questions to ask your "Tax Expert"...

1. How many "IRS's" are there? (If the answer is "One", your 'expert' has already failed this test.)
2. In which tax class is a form 1040 officially classed?
3. How many tax classes are there, what are they, & to whom/what do they pertain?
4. What is so unusual about tax class 6 & what agency is in charge of this tax class?
5. Why can a 3-digit computer paragraph code, such as 515, never refer to a form 1040? To what form does it refer?
6. How many items are in the sequence of a Letter 516, what are they, and what does this signify to your client?
7. What is an IMF? A BMF? An NMF?
8. What is a liability transcript?
9. What does a TC150 on an IMF designate, and where is this information found?
10. What does an MF Stat 06 on an IMF designate, & where is this information found? What "return" does this code number refer to?
11. What is a Document Locator Number?
12. What is a form 2555 and how does it relate to 26USC Section 7203?
13. Why is 26-7401 so important in any tax case?
14. What tax treaty does 2039 Summons refer to?
15. Why is there no OMB number on a 2039 summons form?
16. What is a Form 23(c) and why is there usually not one in existence in a tax case involving supposed liability?
17. Explain the difference between Sources of Income and Items of Income.
18. Explain the difference between Income Tax Laws vs. Internal Revenue Laws.
19. What is the filing requirement of a "non-resident alien" & where is this found in statute? Why, if I claim to be a "non-resident alien", & then don't file a form 1040, can I be lawfully prosecuted & convicted?
20. What does IRS Publication 515 say about withholding if you are a citizen of the United States, & you declare yourself in writing to be so? Why, if you do so exactly as stated in Publication 515, have you been tricked into making an incorrect statement about yourself by syntax, and how can you correct that statement by changing a single letter?
21. What is the definition of "employee" in 26USC Section 3401(c)?
22. What does 'voluntary' mean in 26USC Section 3402(p)?
23. What is a "withholding exemption certificate" in 26USC Section 3402(n)?
24. Why is it impossible for the average person living in one of the 50 states to violate any or all of 26US?
25. What is the relationship between the "United States Individual Income Tax" and the "Guam Individual Income Tax"?
26. Over what Chapters and Sections of the Internal Revenue Code of 1954 does the Guam Individual Income Tax have jurisdiction & where is this found in the United States Codes?
27. Why is obtaining your IMF so important?
28. Over what Chapters of the Internal Revenue Code of 1954 does the Bureau of Alcohol, Tobacco & Firearms have jurisdiction?
29. What is the relationship between the terms "Director, Alcohol, Tobacco and Firearms Division" and "commissioner of Internal Revenue: and where is this found in statute?
30. What is the difference between a "Citizen of the United States", a "citizen of the United States" and a "U.S. Citizen": or a "U.S. Individual"?
31. What is the difference between "internal revenue" and "Internal Revenue", and where is it found in statute?
32. To whom does the "requirement" to "keep books and records" apply and at what point in time is this designated in statute?
33. In 26USC Section 7203, which "return" is required to be filed? Since it makes no mention of a Form 1040 anywhere in Title 26, including this section, how does it happen that people are prosecuted for not filing a "required return: under this section?
34. What is an "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT", and what will it show?

Glossary

Reference: Bouvier's 8th - 1859

**In rem** — Latin: "against the thing" — This technical term is used to designate proceedings or actions instituted against the thing, in contradistinction to personal actions which are said to be *in personam*. Proceedings in rem include not only judgments of property as forfeited, or as prize in the admiralty, or the English exchequer, but also the decisions of other courts upon the personal status, or relations of the party, such as marriage, divorce, bastardy, settlement, or the like.

Reference: Bouvier's 8th - 1859

**Insurrection** — A rebellion of citizens or subjects of a country against its government. Reference: Bouvier's 8th - 1859 [Note as organized and widespread as a rebellion.]

**Interlocutory** — *a.* 2. In law, intermediate; not final or definitive. An order, sentence, decree or judgment, given in an intermediate stage of a cause, or on some intermediate question before the final decision, is called *interlocutory*; as a decree in chancery referring a question of fact to a court of law, or a judgment on default in a court of law. Reference: Webster's - 1828

**Internal revenue** — Philippine trust fund Reference: Title 31 USC §1321(2)

**Internal Revenue** — Guam venue tax. Reference: Title 31

**Internal Revenue** — Puerto Rico trust fund. Reference: Title 31 USC §1321(62)

Glossary

**Internal Revenue Code of 1954** — The Guam Tax Treaty of 1954

**Internal Revenue Service** — The current name of the "Bureau of Internal Revenue" (BIR) of Puerto Rico. The "Federal Alcohol Administration" created on 8-29-1935, 49 Stat. 977; 27 USC §201, was abolished & absorbed into the BIR on 4-2-1940 by Reorganization Plan No. III of 1940, §2, effective June 30, 1940, 5 F.R. (Federal Register) 2107, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. Department of the Treasury Order (TDO) 221 of July 1, 1972, established the BATF and transferred to it the alcohol and functions of the Internal Revenue Service. Public law 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1085 repealed §2 of the 1940 Reorganization Plan No. III and the first section of which enacted Title 31, Money and Finance. Reference: US Statutes at Large and 27 USC §201

**In toto** — Latin: "In the whole; wholly; completely" — ... as the award is void *in toto*. Reference: Bouvier's 8th - 1859

**Invasion** — The entry of a country by a public enemy, making war. Reference: Bouvier's 8th - 1859

**Involuntary** — An involuntary act is that which is performed with constraint, (q.v.) or with repugnance, or without the will to do it. An action is involuntary then, which is performed under duress. Reference: Bouvier's 8th - 1859

Glossary

**U.S. citizen** — A citizen of the U.S. Virgin Islands.

**U.S. constitution** — The constitution for the U.S. Virgin Islands.

**U.S. Constitution** — The constitution for Puerto Rico.

**U.S. v.** — Plaintiff pleading in a case having the venue and jurisdiction originating in the Virgin Islands.

Reference: Title 48 (1441 I)

**ultra vires** — Latin: "beyond its power"

**unalienable** — The state of a thing or right which cannot be sold. 2. ... The natural rights of life and liberty are unalienable. [See the Declaration of Independence]

Reference: Bouvier's 8th - 1859

**unconstitutional** — That which is contrary to the constitution.

Reference: Bouvier's 8th - 1859

**uniform** — *a.* Having always the same form or manner; not variable.

Reference: Webster's - 1828

**UNITED STATES** — The term may be used in any one of several senses: 1. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations [i.e. Japan, England, France, Africa etc.] 2. It may designate the territory over which the sovereignty of the United States extends [i.e. Washington D.C., Guam, Puerto Rico, U.S. Virgin Islands, etc.] or 3. It may be the collective names of the states which are united by and under the Constitution. [i.e. the 50 sovereign states of the Union.]

Glossary

**Hooven & Allison Co. v. Evatt**, 324 U.S. 652; 89 L.Ed. 1252; 65 S.Ct.870 (1944) Reference: Black's 6th - 1990

**United States** — The federal entity defined by Article I, Section 8, Clause 17 (1.8.17) **united States** — One of the fifty sovereign states.

**United States citizens** — District of Columbia citizens.

**United States of America** — The federal entity defined by Article I, Section 8, Clause 17 (1.8.17)

**united States of America** — One of the fifty sovereign states.

**UNITED STATES OF AMERICA v.** — Plaintiff pleading in a case having the venue and jurisdiction originating in the Philippines. Reference: Title 48 (1441 I)

**UNITED STATES v.** — Plaintiff pleading in a case having the venue and jurisdiction originating in the District of Columbia.

Reference: Title 48 (1441 I) 1422 C

**unlawful** — That which is contrary to law. Reference: Bouvier's 8th - 1859

**usurpation** — *n.* The act of seizing or occupying and enjoying the property of another, without right; as the usurpation of a throne; the usurpation of the supreme power. Usurpation, in a peculiar sense, denotes the absolute ouster and dispossession of the patron of a church, by presenting a clerk to a vacant benefice, who is thereupon admitted and instituted. Reference: Webster's - 1828

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**Twining v. State**  
**No. 10**  
**Argued March 19, 20, 1908**  
**Decided November 9, 1908**  
**211 U.S. 78**

ERROR TO THE COURT OF ERRORS AND APPEALS OF  
THE STATE OF NEW JERSEY

*Syllabus*

The judicial act of the highest court of a State, in authoritatively construing and enforcing its laws, is the act of the State.

Exemption from compulsory self-incrimination in the state courts is not secured by any part of the Federal Constitution.

There is a citizenship of the United States and a citizenship of the State which are distinct from each other, *Slaughter House Cases*, 16 Wall. 36, and privileges and immunities, although fundamental, which do not arise out of the nature and character of the National Government, or are not specifically protected by the Federal Constitution, are attributes of state, and not of National citizenship.

The first eight Amendments are restrictive only of National action, and, while the Fourteenth Amendment restrained and limited state action, it did not take up and protect citizens of the States from action by the States as to all matters enumerated in the first eight Amendments.

The words "due process of law," as used in the Fourteenth Amendment, are intended to secure the individual from the arbitrary exercise of powers of government unrestrained by the established principles of private right and distributive justice, *Bank v. Okely*, 4 Wheat. 235, but that does not require that he be exempted from compulsory self-incrimination in the courts of a State that has not adopted the policy of such exemption.

Exemption from compulsory self-incrimination did not form part of the "law of the land" prior to the separation of the colonies from the mother country, nor is it one of the fundamental rights, immunities [211 U.S. 79] and privileges of citizens of the United States, or an element of due process of law within the meaning of the Federal Constitution or the Fourteenth Amendment thereto.

The fact that exemption from compulsory self-incrimination is specifically enumerated in the guarantees of the Fifth Amendment tends to show that it was, and is to be, regarded as a separate right, and not as an element of due process of law.

Send us 15<sup>00</sup> and we will send you this complete case.  
VIP, Box 463, Owensville, Ohio 45768

**Hooven & Allison Co. v. Evatt**

No 38

Argued November 7, 8, 1944

Decided April 9, 1945

324 U.S. 652

III

There remains the question whether the fibers which petitioner brought from the Philippine Islands and stored in its warehouse in the original packages are also imports, constitutionally immune from state taxation.

Respondents argue that the Philippine Islands are not a foreign country, and that only articles brought here [324 U.S. 652] from foreign countries are imports within the meaning of the constitutional provision. Goods transported from one state to another are not imports, since they are articles originating in the United States and not brought into it. *Woodruff v. Parham, supra*; *Somneborn Bros. v. Cureton, supra*; *Baldwin v. G.A.F. Seelig, Inc., supra*. It is petitioner's argument that merchandise brought from the Philippines to the United States is an import because it is brought into the United States from a place without, even though not from a foreign country. Implicit in this argument is the contention that the Philippines, while belonging to the United States as a sovereign, are not part of it, and that merchandise brought from the Philippines is an import because it originates outside of, and is brought into, the territory comprising the several states which are united under and by the Constitution, territory in which the constitutional prohibition against the state taxation of imports is alone applicable.

The Constitution provides us with no definition of the term "imports" other than such as is implicit in the word itself. Imports were defined by Chief Justice Marshall in *Brown v. Maryland, supra*, 437, as "things imported" and "articles brought into a country." He added:

The relation of the Philippines to the United States, taken as the collective name of the states which are united by and under the Constitution, is in many respects different from the status of those areas which, when the Constitution was adopted, were brought under the control of Congress and which were ultimately organized into states of the United States. See *Balzac v. Porto Rico*, 258 U.S. 298, 304-305, and cases cited. Hence, we do not stop to inquire whether articles brought into such territories, or brought from such territories into a state, could have been regarded as imports constitutionally immune from state taxation. We confine the present discussion to the question whether such articles, brought from the Philippines and introduced into the United States, are imports so immune.

5. Article I, Section 8, Clause 1.

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States. . . .

6. Treaty of Paris, December 10, 1898, 30 Stat. 1754:

Article II. Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

Article III. Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line. . . .

The Independence Act, while it did not render the Philippines foreign territory, *Cincinnati Soap Co. v. United States, supra*, 318-320, treats the Philippines as a foreign country for certain purposes. In 48 U.S.C. § 1238(a)(1), it established immigration quotas for Filipinos coming to the United States, as if the Philippines were a separate country, and in that connection extended to Filipinos the immigration laws relating to the exclusion or expulsion of aliens. It also provided, 48 U.S.C. § 1238(a)(2), that citizens of the Philippine Islands who are not citizens of the United States shall be considered as if they were aliens. For purposes of 8 U.S.C. §§ 154 and 156, relating to deportation, the Philippine Islands are declared to be a foreign country. 48 U.S.C. § 1238(a)(4). Foreign [324 u.s. 673] service officers of the United States may be assigned to the Philippines, and are to be considered as stationed in a foreign country. 48 U.S.C. § 1238a. And the Independence Act, § 6, 48 Stat. 456, 460, provides that,

when used in this section in a geographical sense, the term "United States" includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

As we have said, the Philippines have frequently dealt with other countries, as a sovereignty distinct from the United States.

The term "United States" may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States extends, [324 u.s. 672] or it may be the collective name of the states which are united by and under the Constitution. {6}

3. Section 1483(1) of 19 U.S.C., provides that merchandise imported into the United States "shall be held to be the property of the person to whom the same is consigned." We do not deem this provision to be significant here, since it is designed merely to identify the person liable for the payment of customs duties, and since, as we have said, the time when title passes to petitioner is immaterial to decision.

50 states | Territories  
Art. 1 Sec 8 clause 17a18  
§ 2

77 Am Jur 2d

UNITED STATES

§ 128. What constitutes a conspiracy to defraud the United States

I. In General

§ 1. Origin.

The United States is a union of several states,<sup>1</sup> each equal in power, dignity, and authority,<sup>2</sup> which was brought into being by the Federal Constitution,<sup>3</sup> emanating from and adopted by the people,<sup>4</sup> in whom the sovereignty resides.<sup>5</sup> It was established, as the preamble to the Constitution declares, by "the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for common defense, promote the general welfare, and secure the blessings of liberty," to them and their posterity. The avowed intention was to supersede the old confederation, and substitute in its place a new form of government whereby a more perfect union might be achieved than there had been under the Articles of Confederation.<sup>6</sup>

§ 2. Nature and composition.

The term "United States" may be used in any one of several senses, either as the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations,<sup>7</sup> or as designating the territory over which the sovereignty of the United States extends,<sup>8</sup> or as the collective name of the states which are united by and under the United States.<sup>9</sup> It is not, however, a "corporation."<sup>10</sup> While, strictly speaking, the boundaries of the United States conform to the external boundaries of the several states,<sup>11</sup> in dealing with

foreign sovereignties the term "United States" has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal Government wherever located.<sup>12</sup>

The fundamental concept of the government of the United States as created by the Constitution is that it is a government of laws and not of men.<sup>13</sup> Governmental powers are divided among the three departments of government: the legislative department, which is to pass the laws; the executive department, which is to approve and execute laws passed by the legislative department; and the judicial department, which is to expound and enforce those laws.<sup>14</sup>

The composition of the flag of the United States,<sup>15</sup> the composition, custody, and use of the seal of the United States,<sup>16</sup> and designation of the District of Columbia as the permanent seat of government,<sup>17</sup> are provided for by statute.

United Nations. A governmental agency of international status created by nations of the world to with questions of an international character. 30 J Rev ed Internat L § 9.

The overlying purpose of the United Nations is the maintenance of peaceful relations between nations by providing a forum wherein differences be discussed and adjusted without resort to a although collateral thereto are activities in economic, social, cultural, educational, health, related matters.

United Nations Charter. The Charter of the United Nations, an exercise of the treaty-making power of the United States so far as participation by United States is concerned. Rice v Sioux Cemetery, 349 US 70, 99 L Ed 897, 75 S Ct 111. Drawn up at the United Nations Conference on International Organizations at San Francisco, California, April 25-June 26, 1945.

United nuisance. Same as a mixed nuisance. 39 J1st Nuis §§ 6, 7.

United Press. A well-known organization for gathering and dissemination of news, serving newspapers in its membership throughout the United States. The Union of several states, each equal in power, dignity, and authority, brought being by the Constitution, emanating from adopted by the people in whom the sovereignty resides. M'ulloch v Maryland (US) 4 Wheat 4 L Ed 579. A body politic and corporate, cap of attaining the objects for which it was created the means which are necessary for their attainment. Van Brocklin v Tennessee, 117 US 151, 29 L Ed 845, 6 S Ct 670. A person for the purpose of pretrial deposition under Federal Rule 26(a) of Federal Rules of Civil Procedure. 23 Am J2d § 242. Inclusive in reference to transactions with foreign nations of all territories subject to the jurisdiction of the Federal Government, wherever located. Downes v Bidwell, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

A Federal government was created in 1777 by union of thirteen colonies of Great Britain in thirteen articles of confederation and perpetual union the first one of which declared that "the stile of confederacy shall be the United States of America. Each member of the confederacy was denominated a "state." The confederacy, owing to well-known historical reasons, having proven a failure, a Constitution was formed in 1787, by "The people of the United States" "for the United States of America," as its preamble declares. Downes v Bidwell, 182 US 244, 249, 45 L Ed 1088, 1092, 21 S Ct 770.

See expressions following which begin "United States," also terms and expressions beginning "federal" or "national."

United States agency. See federal agency.

United States Attorney General. See Attorney General of the United States.

12. Hooven & Allison Co. v Evatt, 324 US 652, 89 L Ed 1252, 65 S Ct 870, reh den 325 US 892, 89 L Ed 2004, 65 S Ct 1198; Downes v Bidwell, 182 US 244, 45 L Ed 1088, 21 S Ct 770.

Ballentine's Law Dictionary  
Lawyers Co-Operative Publishing Co.  
Rochester, New York

In dealing with statutory law regarding taxation it is of the utmost importance that we use meticulous care in the application of the proper definitions.

Nowhere is this more crucial than in the definition of the terms "State" and "United States".

Lets look at the following examples:

UNITED STATES CODE  
1982 EDITION  
VOLUME ELEVEN  
TITLE 26--INTERNAL REVENUE CODE

SUBTITLE D -- MISCELLANEOUS EXCISE TAXES

CHAPTER 38 -- Environmental Taxes

Subchapter A -- Tax on Petroleum

SEC. 4611. IMPOSITION OF TAX.

(a) General Rule. -- There is hereby imposed a tax of 0.79 cent a barrel on --

(1) crude oil received at a United States Refinery, and

(2) petroleum products entered into the United States for consumption, use or warehousing.

(vol. 11, page 272)

\* \* \*

SEC. 4612. DEFINITIONS AND SPECIAL RULES.

(a) Definitions. -- For purposes of this subchapter

(4) United States. --

(A) In general. -- the term "United States" means the 50 States, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, the commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Vol. 11, page 273)

The preceding is a true Import Tax, as allowed by the Constitution, it contains all indicia of being uniform, and therefore passes the constitutionality test and can operate

## One Congress Which Controls Two Separate Governments

Art 1 Sec. 8 cl. 1-16	Art 4 Sec 3 Art 1 Sec 8 cl. 17-18
The 50 states	54 Federal States Territories (Midway Islands Etc) Washington D.C.
American Citizens	U.S. Citizens
Are guaranteed substantive rights under the constitution of their state	Have only those privileges which Congress grants to them

A person may be a citizen of the United States without at the same time being a citizen of any state, as is the case with those inhabiting the territories, the District of Columbia, and other places not forming a part of any state.

For more information you may wish to order the following:

- 1.) "The Just Supremacy of Congress Over the Territories", 1859  
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April 1956 and June 1957 .....\$30.00 \_\_\_
- 3.) United States of America vs. Robert C. Braun 94-CR-140,  
Challenge to the jurisdiction of Congress, win.....\$30.00 \_\_\_
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## SUBCHAPTER II. TRUST FUNDS AND REFUNDS

## § 1321. Trust funds

(a) The following are classified as trust funds:

- (1) Philippine special fund (customs duties).
- (2) Philippine special fund (internal revenue).
- (3) Unclaimed condemnation awards, Department of the Treasury.
- (4) Naval reservation, Olangapo civil fund.
- (5) Personal funds of deceased inmates, Naval Home.
- (6) Return to deported aliens of passage money collected from steamship companies.
- (7) Vocational rehabilitation, special fund.
- (8) Library of Congress gift fund.
- (9) Library of Congress trust fund, investment account.
- (10) Library of Congress trust fund, income from investment account.
- (11) Library of Congress trust fund, permanent loan.
- (12) Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act.
- (13) Cooperative work, Forest Service.
- (14) Wages and effects of American seamen, Department of Commerce.
- (15) Pension money, Saint Elizabeths Hospital.
- (16) Personal funds of patients, Saint Elizabeths Hospital.
- (17) National Park Service, donations.
- (50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.
- (51) Washington redemption fund.
- (52) Permit fund, District of Columbia.
- (53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.
- (54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.
- (55) Miscellaneous trust fund deposits, District of Columbia.
- (56) Surplus fund, District of Columbia.
- (57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.
- (58) Inmates' fund, workhouse and reformatory, District of Columbia.
- (59) Soldiers' Home, permanent fund.
- (60) Chamber Music Auditorium, Library of Congress.
- (61) Bequest of Gertrude Hubbard.
- (62) Puerto Rico special fund (Internal Revenue).
- (63) Miscellaneous trust funds, Department of State.
- (64) Funds contributed for improvement of (name of river or harbor).
- (65) Funds advanced for improvement of (name of river or harbor).
- (66) Funds contributed for Indian projects.
- (67) Miscellaneous trust funds of Indian tribes.
- (68) Ship's stores profits, Navy.
- (69) Completing Surveys within Railroad Land Grants.

(3) **Peace Bonds.** These rules do not alter the power of judges of the United States or of United States magistrate judges to hold to security of the peace and for good behavior under Revised Statutes, § 4069, 50 U.S.C. § 23, but in such cases the procedure shall conform to these rules so far as they are applicable.

(4) **Proceedings Before United States Magistrate Judges.** Proceedings involving misdemeanors and other petty offenses are governed by Rule 58.

(5) **Other Proceedings.** These rules are not applicable to extradition and rendition of fugitives; civil forfeiture of property for violation of a statute of the United States; or the collection of fines and penalties. Except as provided in Rule 20(d) they do not apply to proceedings under 18 U.S.C. Chapter 403—Juvenile Delinquency—so far as they are inconsistent with that chapter. They do not apply to summary trials for offenses against the navigation laws under Revised Statutes §§ 4300–4305, 33 U.S.C. §§ 391–396, or to proceedings involving disputes between seamen under Revised Statutes, §§ 4079–4081, as amended, 22 U.S.C. §§ 256–258, or to proceedings for fishery offenses under the Act of June 28, 1937, c. 392, 50 Stat. 325–327, 16 U.S.C. §§ 772–772i, or to proceedings against a witness in a foreign country under 28 U.S.C. § 1784.

(c) **Application of Terms.** As used in these rules the following terms have the designated meanings.

“**Act of Congress**” includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

“**Attorney for the government**” means the Attorney General, an authorized assistant of the Attorney General, a United States Attorney, an authorized assistant of a United States Attorney, when applicable to cases arising under the laws of Guam the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein, and when applicable to cases arising under the laws of the Northern Mariana Islands the Attorney General of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

“**Civil action**” refers to a civil action in a district court.

The words “demurrer,” “motion to quash,” “plea in abatement,” “plea in bar” and “special plea in bar,” or words to the same effect, in any act of Congress shall be construed to mean the motion raising a defense or objection provided in Rule 12.

“**District court**” includes all district courts named in subdivision (a) of this rule.

“**Federal magistrate judge**” means a United States magistrate judge as defined in 28 U.S.C. §§ 631–639, a judge of the United States or another judge or judicial officer specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates.

“**Judge of the United States**” includes a judge of a district court, court of appeals, or the Supreme Court.

“**Law**” includes statutes and judicial decisions.

“**Magistrate judge**” includes a United States magistrate judge as defined in 28 U.S.C. §§ 631–639, a judge of the United States, another judge or judicial officer specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates, and a state or local judicial officer, authorized by 18 U.S.C. § 3041 to perform the functions prescribed in Rules 3, 4, and 5.

“**Oath**” includes affirmations.

“**Petty offense**” is defined in 18 U.S.C. § 19.

“**State**” includes District of Columbia, Puerto Rico, territory and insular possession.

“**United States magistrate judge**” means the officer authorized by 28 U.S.C. §§ 631–639.

(As amended Dec. 27, 1948, eff. Oct. 20, 1949; April 9, 1956, eff. July 8, 1956; Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 23, 1982, eff. Aug. 1, 1982; Oct. 12, 1984, Pub.L. 98–473, Title II, §§ 209(e), 215(e), 98 Stat. 1987, 2016; Nov. 18, 1988, Pub.L. 100–690, Title VII, § 7089(c), 102 Stat. 4409; May 1, 1990, eff. Dec. 1, 1990; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 22, 1993, eff. Dec. 1, 1993.)

#### Subd. (c) of this Rule Applicable to Offenses Committed Prior to Nov. 1, 1987

Subd. (c) of this rule as in effect prior to amendment by Pub.L. 98–473, § 215(e), read as follows:

(c) **Application of Terms.** As used in these rules the following terms have the designated meanings.

“**Act of Congress**” includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

“**Attorney for the government**” means the Attorney General, an authorized assistant of the Attorney General, a United States Attorney, an authorized assistant of a United States Attorney, when applicable to cases arising under the laws of Guam the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein, and when applicable to cases arising under the laws of the Northern Mariana Islands the Attorney General of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

“**Civil action**” refers to a civil action in a district court.

## Notes of Decisions

Generally 1  
Members of Congress 2

## 2. Members of Congress

For purposes of this section and section 2105 of this title relating to government organization and employees, member of Congress is not "officer", although their staffs are "employees of the United States". *Liberation News Service v. Eastland*, C.A.N.Y.1070, 426 F.2d 1370.

## 1. Generally

The recognition in a federal statute of a person in the public employ as an officer of the United States constitutes such person an officer. 1007, 20 Op.Atty.Gen. 364.

## § 2105. Employee

(a) For the purpose of this title, "employee", except as otherwise provided by this section or when specifically modified, means an officer and an individual who is—

(1) appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a Member or Members of Congress, or the Congress;
- (C) a member of a uniformed service;
- (D) an individual who is an employee under this section;
- (E) the head of a Government controlled corporation; or
- (F) the adjutants general designated by the Secretary concerned under section 709(c) of title 32, United States Code;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

(b) An individual employed at the United States Naval Academy in the midshipmen's laundry, the midshipmen's tailor shop, the midshipmen's cobbler and barber shops, and the midshipmen's store, except an individual employed by the Academy dairy, is deemed an employee.

(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—

(1) laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title) administered by the Civil Service Commission; or

(2) subchapter I of chapter 81 and section 7902 of this title.

This subsection does not affect the status of these nonappropriated fund activities as Federal instrumentalities.

(d) A Reserve of the armed forces who is not on active duty or who is on active duty for training is deemed not an employee or an individual holding an office of trust or profit or discharging an official function under or in connection with the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

(e) Except as otherwise provided by law, an employee of the United States Postal Service or of the Postal Rate Commission is deemed not an employee for purposes of this title.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 409; Pub.L. 90-486, § 4, Aug. 13, 1968, 82 Stat. 757; Pub.L. 91-375, § 6(c)(4), Aug. 12, 1970, 84 Stat. 775; Pub.L. 92-392, § 2, Aug. 19, 1972, 86 Stat. 573.

## Historical and Revision Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
(b)	[Uncodified]	Aug. 5, 1939, ch. 448, § 2, 53 Stat. 1210.
	[Uncodified]	Dec. 3, 1945, ch. 510, § 2, 50 Stat. 590.
	[Uncodified]	Dec. 28, 1945, ch. 503, § 2, 50 Stat. 660.
	[Uncodified]	Dec. 28, 1945, ch. 504, § 2, 50 Stat. 660.
	[Uncodified]	July 20, 1946, ch. 675, § 2 (last proviso), 60 Stat. 704.
(c)	5 U.S.C. 150k	June 10, 1952, ch. 444, § 1, 66 Stat. 138.
(d)	5 U.S.C. 30r(d)	Aug. 10, 1956, ch. 1041, § 20(d), 70A Stat. 632.

## Explanatory Notes

Subsection (a) is supplied to avoid the necessity of defining "employee" each time it appears in this title. The subsection is based on a definition worked out independently by the Civil Service Commission and the Department of Labor and in use by both for more than a decade.

In subsection (b), the provisions of the source statutes which relate to credit for prior service and diminution of pay are executed, or, insofar as to be executed, preserved by technical section 8.

In subsection (d), the words "officer or" are omitted as included within "employee".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text. Section 709(c) of title 32, United States Code.

In subsec. (a) (1) (F), is section 709(c) of Title 32, National Guard.

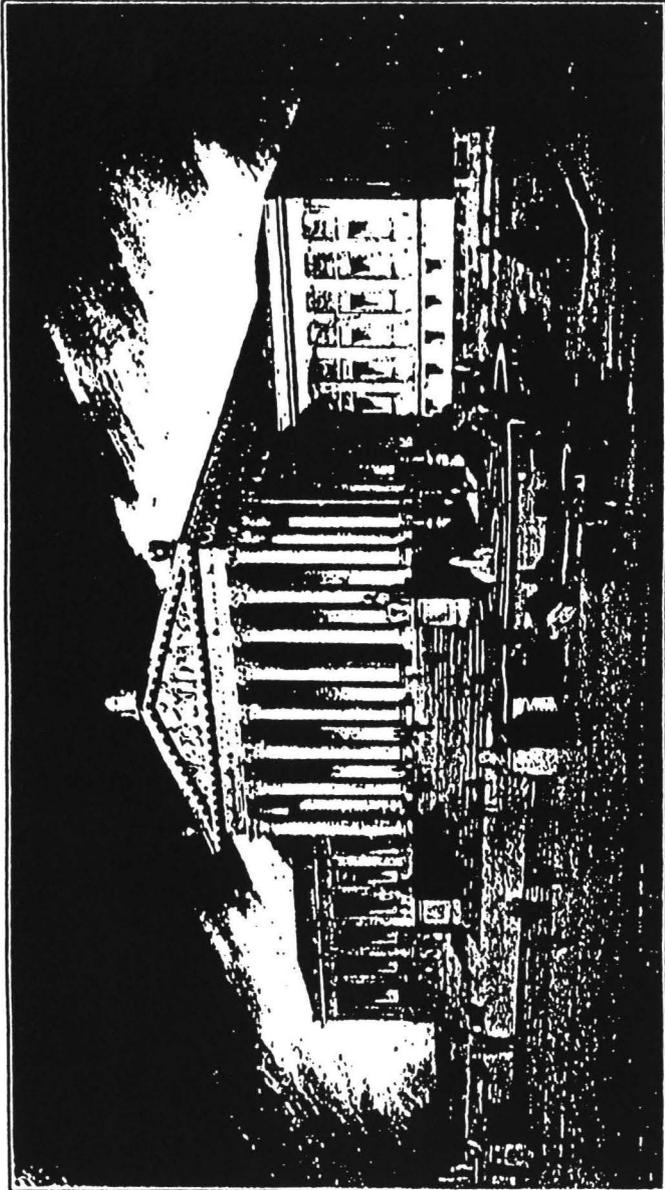
1972 Amendment. Subsec. (c) (1). Pub. L. 92-392 substituted "laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title)" for "laws".

1970 Amendment. Subsec. (e). Pub.L. 91-375 added subsec. (e).

1968 Amendment. Subsec. (a)(1)(F). Pub.L. 90-486 added subsec. (a)(1)(F).

Effective Date of 1972 Amendment. Amendment of subsec. (c) (1) of this section by Pub.L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub.L. 92-293, set out as a note under section 5341 of this title.

Effective Date of 1970 Amendment. Amendment by Pub.L. 91-375 effective



NEW SUPREME COURT BUILDING, WASHINGTON.

In this beautiful hall of justice, progressive but orderly development of the Constitution should enhance respect for law.

# AMERICAN GOVERNMENT

A CONSIDERATION OF THE  
PROBLEMS OF DEMOCRACY

*New Enlarged Edition*

1933

BY

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FORMERLY INSTRUCTOR IN POLITICS

PRINCETON UNIVERSITY

*"It is the duty of the government to make it easy for the people to do right, and difficult for the people to do wrong." — W. E. Gladstone.*

ALLYN AND BACON

BOSTON      NEW YORK      CHICAGO  
ATLANTA      SAN FRANCISCO      DALLAS

**Judicial Powers.** — Congress has power to establish Federal courts, to define and punish piracy on the high seas, to define and punish offenses against the law of nations, and to punish counterfeiters of Federal money and securities.

**Power over Federal Districts.** — Congress has power to legislate for territories of the United States, the District of Columbia, forts, dockyards, National parks, and so on.

The Federal government can acquire necessary property by right of eminent domain,<sup>1</sup> but it cannot exercise governmental authority over property acquired within a State unless purchased by the consent of the legislature of the State in which it is located. When title is acquired by purchase and the consent of the legislature, the Federal jurisdiction is exclusive: the Federal laws replace the State laws and the Federal courts replace the State courts. West Point Military Reservation was acquired with the consent of the New York Legislature, so it was held that a civilian committing robbery on a road through West Point Academy grounds could not be convicted in a State court — only in the Federal court.

**War Powers.** — Congress has power to declare war, to grant letters of marque and reprisal, to make rules concerning captures on land and water, to raise and support armies, to provide and maintain a navy, to make laws governing land and naval forces, to provide for calling out the militia, and to provide for organizing, arming, and disciplining the militia.

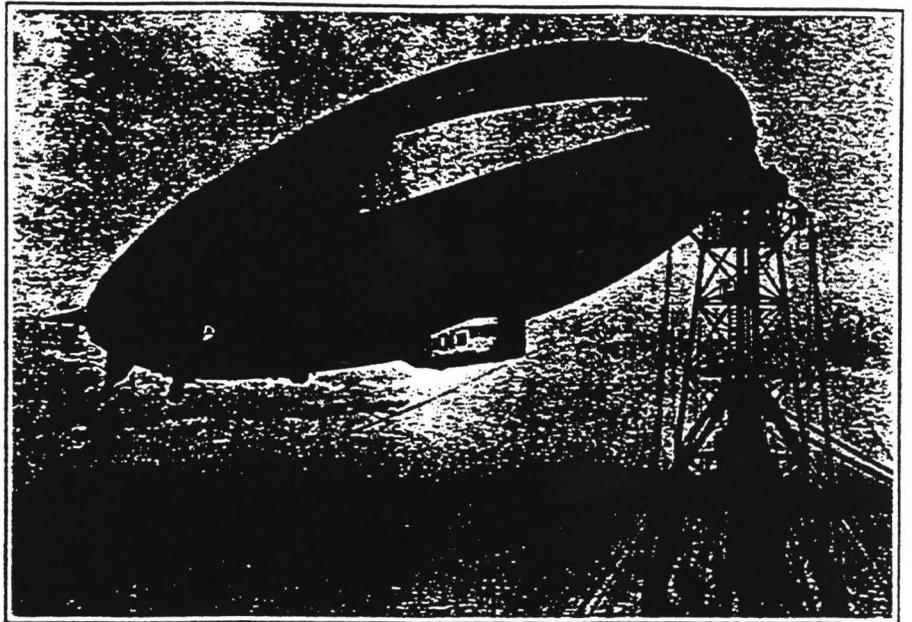
## II. IMPLIED POWERS

**The Elastic Clause.** — The last clause of Article I, Section 8, of the Constitution, known as the “elastic clause,” or the “necessary and proper clause,” gives Congress power “to make all laws which shall be necessary and proper for carrying into execution the foregoing (expressed) powers.” Chief Justice

---

<sup>1</sup> The right of eminent domain is the right that a government exercises in taking private property for a public purpose by paying the owner a fair price for it.

Marshall decided that "necessary and proper" means "convenient or useful." Therefore, Marshall concluded that this "necessary and proper" clause *implies* that Congress might pass any laws which are "convenient or useful" in carrying into execution those laws which Congress has a specific, undisputed right to enact.



*Acme Photos.*

DIRIGIBLE LOS ANGELES ANCHORED TO U. S. S. PATOKA AT BALBOA, PANAMA.

Subsequent Supreme Court judges have construed the "necessary and proper clause" very liberally; they have practically changed the "and" in "necessary and proper" to "or," so that the Constitution really reads "necessary or proper." With this clause thus interpreted Congress has been able to exercise wider and wider powers.

→ The original Constitution gave the United States express power to punish only four crimes — counterfeiting, felonies committed on the high seas, offenses against the law of nations, and treason; but other laws that Congress has express power to enact would

## EIGHTEEN POWERS VESTED IN CONGRESS 11:

be worthless if it could not punish the breaking of them, therefore Congress has the *implied* right to punish all crimes against the United States.

The Constitution does not specifically allow Congress to charter a National bank, but the Supreme Court of the United States decided that the right is *implied* in the power to collect taxes and to borrow money. State banks were not carefully managed and a National bank was "convenient and useful" for the safe-keeping of the taxes collected.

The Constitution does not expressly provide for river and harbor improvements or the building of canals, but the power is *implied* from the expressed power to maintain a navy and regulate commerce.

The power of eminent domain is not expressly granted to the United States, but the expressed powers to establish post offices and to establish courts *implies* the necessity of post office buildings and court houses, therefore the United States can condemn land for these purposes by the right of eminent domain.

If our Constitution could be more easily amended the meaning of its clauses need not be "stretched" to meet new conditions, but most of the *implied* powers would become *expressed* powers through Constitutional amendments.

### OUTLINE OF THE EIGHTEEN POWERS VESTED IN CONGRESS BY ARTICLE I, SECTION 8

#### Expressed Powers:

#### I. PEACE POWERS:

1. To lay taxes.
  - a. Direct (not used since the Civil War, except income tax).
  - b. Indirect.
    - Customs = Tariff.
    - Excises = Internal revenue.
2. To borrow money.
3. To regulate foreign and interstate commerce.
4. To establish naturalization and bankruptcy laws.
5. To coin money and regulate its value; to regulate weights and measures.

6. To punish counterfeiters of Federal money and securities.
7. To establish post offices and post roads.
8. To grant patents and copyrights.
9. To create courts inferior to the Supreme Court.
10. To define and punish piracies and felonies on the high seas to define and punish offenses against the law of nations.
11. To exercise exclusive jurisdiction over the District of Columbia to exercise exclusive jurisdiction over forts, dockyards, National parks, Federal buildings, etc.

## II. WAR POWERS :

12. To declare war; to grant letters of marque and reprisal; to make rules concerning captures on land and water.
13. To raise and support armies.
14. To provide and maintain a navy.
15. To make laws governing land and naval forces.
16. To provide for calling forth the militia to execute Federal laws, suppress insurrections, and repel invasions.
17. To provide for organizing, arming, and disciplining the militia, and for governing it when in the service of the Union.

### Implied Powers :

18. To make all laws necessary and proper for carrying into execution the foregoing powers.

For example — To punish the breaking of Federal law.  
 To establish National banks.  
 To improve rivers, harbors, and canals.  
 To condemn property by eminent domain.

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### QUESTIONS ON THE TEXT

1. In what Article and Section of the Constitution are most of the *expressed* powers of Congress enumerated?

↙

DIVISION OF POWERS BETWEEN THE NATIONAL GOVERNMENT AND THE STATES

POWERS OF GOVERNMENT	FEDERAL <sup>1</sup> . . . .	{ Expressed <sup>2</sup> -- (Article I, Section 8, Clauses 1-17; Amendment 16) Implied <sup>3</sup> -- (Article I, Section 8, Clause 18) Denied -- (Article I, Section 9; Amendments 1-11; 13)
	CONCURRENT <sup>4</sup> . . . .	(Examples: taxation, prohibition, eminent domain)
	STATE . . . . .	{ Reserved <sup>5</sup> -- (Amendment 10) -- Example: police powers -- { Health Denied -- (Article I, Section 10; Amendments 13-15, 18, 19) { Morals Safety Welfare

<sup>1</sup> The terms "national" and "delegated" mean the same as "federal" in this connection.

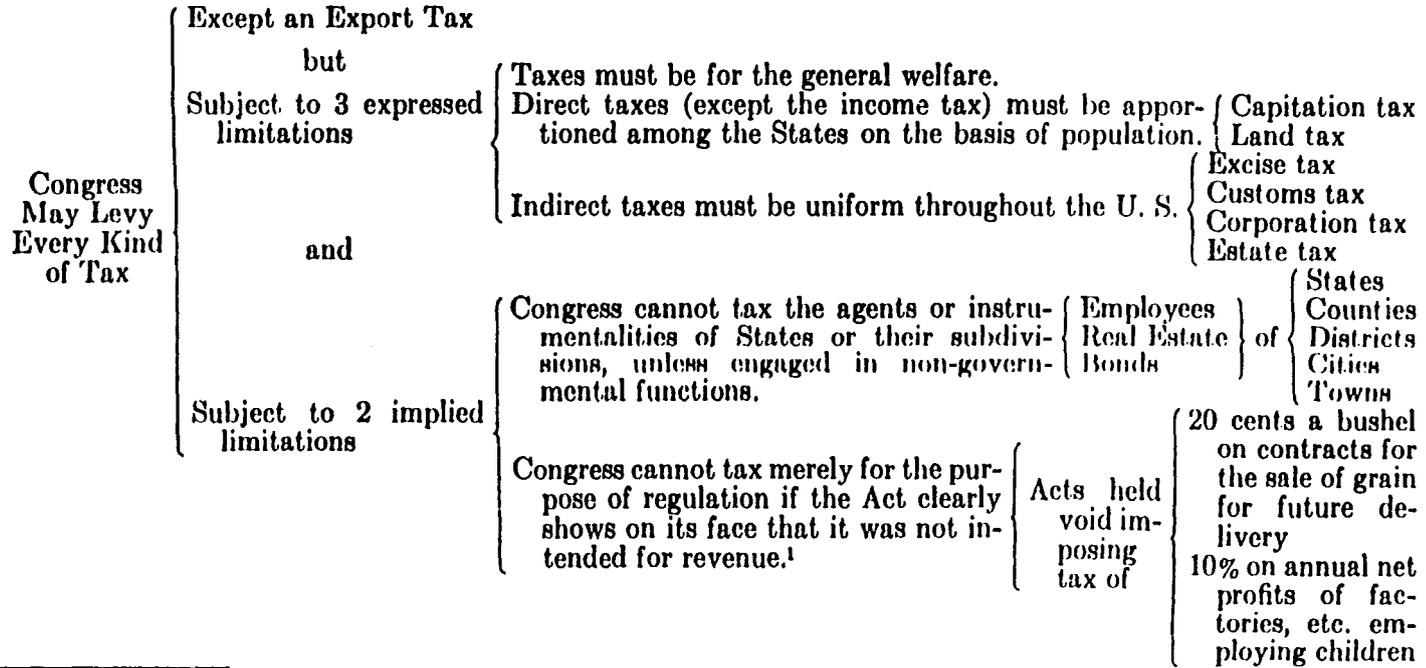
<sup>2</sup> The term "enumerated" (numbered) means the same as "expressed" in this connection.

<sup>3</sup> The term "resultant power" is used when a power is not clearly implied from any one "expressed power" but results from several expressed powers. The term "inherent in sovereignty" is sometimes used for powers neither clearly expressed nor clearly implied but necessarily belonging to a sovereign state. Recognizing new sovereign states and deporting aliens are examples of powers inherent in sovereignty.

<sup>4</sup> The term "concurrent power" means one which may be exercised by either the Federal government or the State government or both.

<sup>5</sup> The term "residual" is often used in the sense of "reserved."

POWERS OF FEDERAL TAXATION



<sup>1</sup> Protective tariff rates have so far never been declared void because so high that they exclude and hence produce no revenue. The power of Congress in respect to tariff is strengthened by its power to regulate foreign commerce.

Congress  
Has Power to  
Regulate  
Interstate  
Commerce

- Navigation . . . { Regulates vessels that run from State to State  
Improves rivers, harbors, and canals  
Forbids competition of foreign vessels for coastwise trade  
May regulate boats on lakes wholly within a State
- Transportation . . . { Railroads  
Continuous shipments partly by rail and partly by water } Regulated through the Interstate Commerce Commission  
{ Express companies and sleeping car companies }  
{ Pipe lines, except for water and illuminating gas }  
{ Steamboats } Not regulated through the Interstate Commerce Commission  
{ Bus lines }  
{ Aëroplanes }
- Communication . . . { Telegraph } { Wire . . . Interstate Commerce Com. } Appeal to Federal Courts in certain cases  
{ Telephone } { Wireless . . . Department of Commerce }  
{ Broadcasting . . . . . Federal Radio Commission }  
{ Correspondence schools . Federal courts }
- Persons . . . . { Walking across State line } for business or for pleasure  
{ Riding across State line }
- Commodities . . . { May be excluded from interstate commerce  
Protected against unreasonable State interference  
Protected against unreasonable restraint of trade by monopolies
- Subject to incidental interference by States in the reasonable exercise of their "police powers" { health  
morals  
safety  
welfare

constitute that nation" (US House of Representatives Report No. 249 (1900) 56:1:6); "the term 'United States,' as used in the Constitution, has reference only to the States that constitute the Federal Union and does not include Territories" (US House of Representatives Report No. 249 (1900) 56:1:16).

X But the committees insisted that the Constitution was not extended *ex proprio vigore* with the mere acquisition of new land or with the mere granting of territorial status to such land unless Congress declared it to be so extended. For, in the capitalized words of the Senate report, "THE ORGANIZATION AND GOVERNMENT OF TERRITORIES IS NOT A CONSTITUTIONAL RIGHT, BUT SOLELY A QUESTION OF EXPEDIENCY WITHIN THE DISCRETION OF CONGRESS" (US Senate Report No. 249 (1900) 56:1:10).

33 Y "It is clear that Territories are not created, organized, or supervised under the Constitution as a constitutional right, but that they are on the contrary created, organized and supervised by Congress by virtue of both inherent and constitutional power with which Congress, as the political department of the Government, is vested, to rule and regulate the Territories of the United States; and the rights, power, privileges, and immunities granted to the inhabitants of the Territories, whatever they may be, are all given by Congress and do not flow from the Constitution beyond what Congress may declare. In other words, the provisions of the Constitution do not operate beyond the States, unless Congress shall so enact. . . . There is no guaranty in the Constitution that a Territory shall even have a republican form of government or that the civil and political status of the inhabitants of a Territory shall be of any particular character." (US Senate Report No. 249 (1900) 56:1:10-11)

The first time Congress extended the Constitution to a territory, the report declared, was with the formation of a territorial government for New Mexico in 1850. Since then it had done so fairly regularly although Congress still retained "the constitutional power . . . to either extend or withhold the Constitution in all such cases, as may deem advisable" (US Senate Report No. 249 (1900) 56:1:6).

Even if Congress decided not to extend the Constitution to a territory, the Senate committee insisted, its legislative power over the territory was neither unlimited nor absolute, for it must abide by constraints imposed by the Constitution on what Congress may legislate generally.

"They [these constraints] operate for the benefit of all for whom Congress may legislate, no matter where they may be situated, and without regard to whether or not the provisions of the Constitution have been extended to them; but this is so because the Congress, in all that it does, is subject to and governed by those

restraints and prohibitions. . . . [For example,] Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; no title of nobility shall be granted; no bill of attainder or ex post facto law shall be passed; neither shall the validity of contracts be impaired, nor shall property be taken without due process of law; nor shall the freedom of speech or of the press be abridged; nor shall slavery exist in any place subject to the jurisdiction of the United States." (US Senate Report No. 249 (1900) 56:1:11)

But the matter of uniform imposts was not deemed one of the legislative enactments prohibited by the Constitution.

The House committee seemed to view the power of Congress over territories as much more absolute and unlimited than did the Senate committee: "The power of Congress with respect to legislation for the Territories is plenary" (US House of Representatives Report No. 249 (1900) 56:1:16). But it acknowledged that congressional legislation did have to abide by certain constitutional restraints. The only such example it offered was "the thirteenth amendment to the Constitution, which prohibits the existence of slavery in any place over which the United States has jurisdiction" (US House of Representatives Report No. 249 (1900) 56:1:10).

Both committees agreed that another restraint limiting the legislative power of Congress over territories was the agreed-upon terms of a treaty. The House report declared:

"In all of the [earlier] treaties, save that relating to Alaska, provision has been made that the territory acquired should be incorporated into the Union as soon as possible, and that in the meantime the civil rights of its inhabitants should be guaranteed. In the treaty with Russia whereby Alaska was acquired no provision was made for the incorporation of the Territory into the Union, but provision was made that the inhabitants should have the immunities of citizens of the United States and protection in the enjoyment of their liberty, property, and religion. Had not these terms been made in the treaties, the territory acquired would have become subject to the legislation of Congress under its power to make all needful rules and regulations respecting it, which is without limitation." (US House of Representatives Report No. 249 (1900) 56:1:10)

As the Senate report pointed out, no such limitation was to be found in the Treaty of Paris. In fact the treaty explicitly provided for Congress to determine the civil rights and political status of the inhabitants of Puerto Rico and the other ceded territories. The report emphasized, "No such clause as this [one in the Treaty of Paris] has ever before been found in any treaty ceding territory to the United States. Its effect is, therefore, to be considered now for the first time. There is no

and includes any amount owing to the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

(4) "Debtor" means a person who is liable for a debt or against whom there is a claim for a debt.

(5) "Disposable earnings" means that part of earnings remaining after all deductions required by law have been withheld.

(6) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(7) "Garnishee" means a person (other than the debtor) who has, or is reasonably thought to have, possession, custody, or control of any property in which the debtor has a substantial nonexempt interest, including any obligation due the debtor or to become due the debtor, and against whom a garnishment under section 3104 or 3205 is issued by a court.

(8) "Judgment" means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

(9) "Nonexempt disposable earnings" means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

(10) "Person" includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a State or local government or an Indian tribe.

(11) "Prejudgment remedy" means the remedy of attachment, receivership, garnishment, or sequestration authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

(12) "Property" includes any present or future interest, whether legal or equitable, in real, personal (including choses in action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

(B) Indian lands subject to restrictions against alienation imposed by the United States.

(13) "Security agreement" means an agreement that creates or provides for a lien.

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

(15) "United States" means—

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

(16) "United States marshal" means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

(Added Pub.L. 101-647, Title XXXVI, § 3611, Nov. 29, 1990, 104 Stat. 4933.)

#### HISTORICAL AND STATUTORY NOTES

##### References in Text

Section 303 of the Consumer Credit Protection Act, referred to in par. (9), is classified to section 1673 of Title 15, Commerce and Trade.

##### Effective Date

Section to take effect 180 days after Nov. 29, 1990, except as otherwise provided, see section

3631 of Pub.L. 101-647, set out as a note under section 3001 of this title.

##### Legislative History

For legislative history and purpose of Pub.L. 101-647, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

NOTES OF DECISIONS

Debt 1

1. Debt

Federal Debt Collection Procedures Act (FDCPA) applied retroactively to Government's action to avoid allegedly fraudulent real estate

transfers that occurred prior to enactment of FDCPA; Government's action, which was brought in attempt to secure payment of its environmental response cost claim, was one on "claim for debt," within meaning of FDCPA's retroactivity provision. U.S. v. Dickerson, M.D.Ga.1992, 790 F.Supp. 1583.

§ 3003. Rules of construction

(a) **Terms.**—For purposes of this chapter—

- (1) the terms "includes" and "including" are not limiting;
- (2) the term "or" is not exclusive; and
- (3) the singular includes the plural.

(b) **Effect on rights of the United States.**—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law or any State law—

- (1) to collect taxes or to collect any other amount collectible in the same manner as a tax;
- (2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case;
- (3) to appoint or seek the appointment of a receiver; or
- (4) to enforce a security agreement.

(c) **Effect on other laws.**—This chapter shall not be construed to supersede or modify the operation of—

- (1) title 11;
- (2) admiralty law;
- (3) section 3713 of title 31;
- (4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);
- (5) a statute of limitation applicable to a criminal proceeding;
- (6) the common law or statutory rights to set-off or recoupment;
- (7) any Federal law authorizing, or any inherent authority of a court to provide, injunctive relief;
- (8) the authority of a court—
  - (A) to impose a sanction under the Federal Rules of Civil Procedure;
  - (B) to appoint a receiver to effectuate its order; or
  - (C) to exercise the power of contempt under any Federal law;
- (9) any law authorizing the United States to obtain partition, or to recover possession, of property in which the United States holds title; or
- (10) any provision of any other chapter of this title, except to the extent such provision is inconsistent with this chapter.

(d) **Preemption.**—This chapter shall preempt State law to the extent such law is inconsistent with a provision of this chapter.

(e) **Effect on rights of the United States under foreign and international law.**—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

(f) **Applicability of Federal Rules of Civil Procedure.**—Except as provided otherwise in this chapter, the Federal Rules of Civil Procedure shall apply with respect to actions and proceedings under this chapter.

(Added Pub.L. 101-647, Title XXXVI, § 3611, Nov. 29, 1990, 104 Stat. 4935.)

HISTORICAL AND STATUTORY NOTES

Effective Date

Section to take effect 180 days after Nov. 29, 1990, except as otherwise provided, see section

3631 of Pub.L. 101-647, set out as a note under section 3001 of this title.

unity or the alcoholic equivalent thereof.

*Rectifier.* Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

*Region.* A Bureau of Alcohol, Tobacco and Firearms Region.

*Regional director (compliance).* The principal ATF regional official responsible for administering regulations in this part.

*Revenue Agent.* Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

*Secretary.* The Secretary of the Treasury of Puerto Rico.

*Secretary or his delegate.* The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

*Taxpaid.* As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was deferred under the provisions of Subpart E of this part.

*Treasury Account.* The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

*United States.* The States and the District of Columbia.

*U.S.C.* The United States Code.

*United States Bureau of Alcohol, Tobacco and Firearms office.* The Bureau of Alcohol, Tobacco and Firearms office in Puerto Rico operating under the direction of the Regional Director (Compliance), North Atlantic Region, New York, NY 10048.

*Virgin Islands regulations.* Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and § 250.201a.

*Wine.* Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of

alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

(T.D. ATF-48, 43 FR 13551, Mar. 31, 1978)

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 250.11, see the List of CFR Sections Affected in the Finding Aids section of this volume.

#### Subpart Ca—Rum Imported into the United States From Areas Other Than Puerto Rico and the Virgin Islands

##### § 250.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 250.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments in the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

(T.D. ATF-203, 50 FR 15888, Apr. 23, 1985)

##### § 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United

from Title 27.250.11  
C.F.R.

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USAJOBS	CONTROL NO BL9702
INTERNAL REVENUE AGENT	OPEN PERIOD 07/26/1999 - INDEFINITE
SERIES/GRADE: GS-0512-05/09	
SALARY: \$ 22,299 TO \$ 33,787, ANNUAL	PROMOTION POTENTIAL: GS-11
ANNOUNCEMENT NUMBER: IRA-99-16	
HIRING AGENCY: TREASURY, Internal Revenue Service	
DUTY LOCATIONS: 0100 CINCINNATI, OH	
<p>REMARKS: MUST BE A U.S. CITIZEN. IF ELIGIBLE, REQUIRED WRITTEN TEST AND SELECTION INTERVIEW WILL BE CONDUCTED IN CINCINNATI, OH ONLY. OUT OF STATE APPLICANTS MAY BE INTERVIEWED TELEPHONICALLY. ANNOUNCEMENT WILL REMAIN OPEN UNTIL ALL POSITIONS ARE FILLED. ELIGIBLE APPLICANTS FILING AFTER CURRENT VACANCIES FILLED WILL BE PLACED ON A REGISTER TO BE CONSIDERED FOR FUTURE VACANCIES.</p>	
CONTACT:	ALYSSA SANTANA PHONE: (212) 436-1403  INTERNAL REVENUE SERVICE CENTRALIZED EXAMINING UNIT CHURCH STREET STATION P.O. BOX 1427 NEW YORK, NY 10008-1427

Full vacancy announcement follows. Please be sure to review for complete qualification and "How to Apply" information.

OPENING DATE: July 26, 1999	CLOSING DATE: Indefinite
INTERNAL REVENUE SERVICE VACANCY ANNOUNCEMENT No. IRA-99-16	
POSITION: INTERNAL REVENUE AGENT	

EMPLOYEE PLANS/EXEMPT ORGANIZATION (EP/EO) DIVISION  
GS-512-5/7/9

STARTING SALARY: GS-5: \$ 22,299      GS-7: \$ 27,620      GS-9: \$ 33,787

This position is PERMANENT

PROMOTION POTENTIAL:      Promotion potential exists to the GS-11 grade level without further competition.

DUTY LOCATIONS:      Cincinnati, OH

NUMBER OF VACANCIES:      100

WHO MAY APPLY:      Any ICTAP/CTAP eligible applicant  
Any U.S. Citizen

PLEASE NOTE:      THIS VACANCY ANNOUNCEMENT WILL REMAIN OPEN UNTIL ALL POSITIONS ARE FILLED. ELIGIBLE APPLICANTS FILING AFTER CURRENT VACANCIES ARE FILLED WILL BE PLACED ON A REGISTER TO BE CONSIDERED FOR FUTURE VACANCIES.

THE WRITTEN TEST REQUIRED FOR THIS POSITION AND SELECTION INTERVIEWS WILL BE CONDUCTED IN CINCINNATI, OH ONLY. OUT OF STATE APPLICANTS MAY BE INTERVIEWED TELEPHONICALLY.

TESTING SESSIONS WILL BE HELD APPROXIMATELY EVERY MONTH BEGINNING IN SEPTEMBER 1999.

MAJOR DUTIES OF THE POSITION: An Internal Revenue Agent is a professional accountant and must meet comprehensive qualification requirements. Revenue Agents must be able to meet the demands of a constantly changing and expanding field of knowledge. They must keep abreast of changes in tax law and accounting techniques and practices characteristic of various types of businesses and industries.

Revenue Agents in Employee Plans apply their professional accounting skills in conducting examinations of corporate pension plans and trust returns. They ensure that private-employer pension plans comply with the pension tax law provisions of the Internal Revenue Code. Work requires communicating primarily with pension trustees, individual taxpayers, pension attorneys, CPAs, Enrolled Actuaries and other pension practitioners. Revenue Agents in Exempt Organizations examine information returns prepared by certain religious, charitable, educational and other tax-exempt organizations and, based upon analysis, identify significant tax issues. Work involves making determinations in which the exempt organization may lose its exempt status if the agent determines it is not operating for its original tax-exempt purpose. Work requires communicating primarily with officers of exempt organizations, individual taxpayers, attorneys and CPAs.

#### QUALIFICATION REQUIREMENTS

Basic Requirements for GS-5 and Above:

A. Bachelor's or higher degree in accounting from an accredited college or university that included at least 30 semester hours (45 quarter hours) in accounting. The required 30 semester hours (45 quarter hours) in accounting may include up to 6 semester hours (9 quarter hours) in any combination of courses in business law, economics, statistical/quantitative methods, computerized accounting or financial systems, financial management or finance.

OR

B. Bachelor's or higher degree in any field of study from an accredited college or university that included at least 30 semester hours (45 quarter

# INTERNAL REVENUE INVESTIGATION

HEARINGS  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES  
EIGHTY-THIRD CONGRESS  
FIRST SESSION  
ON  
ADMINISTRATION OF THE INTERNAL REVENUE LAWS

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PART A

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FEBRUARY 3, 4, 5, 6, 9, 10, 25, 26, 27, MARCH 2, 3, 4, 5, 6, 10, 11, 12, AND  
13, 1953

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Printed for the use of the Committee on Ways and Means

UNITED STATES  
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WASHINGTON : 1953

29091

EXHIBIT C

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Mr. CURTIS. So in comparing the number of men in the top echelon who would supervise the people in the field, that varies from district to district?

Mr. AVIS. That is true. In some districts where we do not have very much of a permissive problem, we would not have as many permissive supervisors.

Mr. CURTIS. What is a permissive problem?

Mr. AVIS. That is your tax problem, your regulatory problem, your regulation of your industry; that is what we refer to generally as the permissive side, that is, distinguished from the law enforcement.

Chairman KEAN. Along that line, these 17 various districts -- are they all on a standard? That is, does the topman in every district receive the same pay?

Mr. AVIS. No, sir.

Chairman KEAN. They are classified differently?

Mr. AVIS. Depending upon the job they do. For example, take in the Denver district and the Seattle district, the problem there does not correspond to the Louisville district, for example, which is a large distilling center, and in Indiana and Kentucky, and consequently they are not graded as high.

Chairman KEAN. You still have the same title, but not the same grade and salary?

Mr. AVIS. That is right, sir.

Chairman KEAN. And the staff is much smaller in one area than in another?

Mr. AVIS. Much smaller, and that applies to rank and file, of course, as well as to intermediate supervisory positions.

Chairman KEAN. The only reason some of these areas exist are for geographical reasons, and otherwise you would probably make it a lot bigger to cover more territory; but for geographical reasons you have to bunch them close together, some of the smaller ones?

Mr. AVIS. That is true, sir.

Mr. CURTIS. I have one more question. What type of alcohol and liquor tax problem would be referred to the Bureau of Internal Revenue generally, and not be confined to and finally disposed of in the Alcohol and Tobacco Tax Division?

Mr. AVIS. I do not believe there is any.

One of my assistants refers to policy and personnel, and of course, under this new structure, we are concerned here in Washington, as I pointed out, largely with policy and in administering the industry, rather than directing the personnel. That is left primarily to the district commissioners or, rather, the assistant district commissioners.

Mr. CURTIS. An alcohol tax matter that would go to the Appeals Section -

→ Mr. AVIS. There is just no such thing. That is where this structure differs.

Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as night and day. Consequently, your same rules just will not apply, and therefore the alcohol and tobacco tax has been handled here in this reorganization a little differently, because of the very nature of it, than the rest of the over-all tax problem.

# BY ORDER OF THE SECRETARY OF THE TREASURY

**TREASURY ORDER:** 120-01

**DATE:** June 6, 1972

**SUNSET REVIEW:** TBD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All delegations inconsistent with this Order are revoked.

This Order shall become effectively July 1, 1972.

Charles E. Walker

Acting Secretary of the Treasury

# “INTERNAL REVENUE LAWS”

“VS”

# “INCOME TAX LAWS”

Very few people we meet realize that there is a vast difference between the Income Tax Laws and the Internal Revenue Laws as found not only in Title 26 of the United States Code, but through out the entire Code, the CFR's and The United States Statutes at Large.

Below are some questions you just might want to ask in your dealings with the “IRS”.

Has this summons been issued under the “Internal Revenue Laws” or the “Income Tax Laws” of the United States?

Is this investigation being conducted under the .....?

Is this hearing being conducted under the.....?

Is this “Notice of Lien” for the violation of the .....?

Is this “Notice of Levy” for a violation of the ....?

Is the 1040 return under the.....?

Do you withhold monies from your employees under the...?

Do you pay Internal Revenue Taxes or do you pay Income Taxes?

Are you being audited under the...?

Are you operating under the...?

Does your authority stem from the...?

Which records do you wish to see the...?

Which books do you wish to see the...?

As you read thru the “IRC” you will soon find that there is a difference between the two.  
Don't let them make a fool out of you. **ASK!!!**

For more information on this important point in dealing with the IRS contact VIP, Box 463, Owensville, Ohio, 45160 or call 1-877-879-2788

**Amendments:**

1927. Act Feb. 25, 1927, substituted "\$6" for "\$8".

1932. Act June 24, 1932, added provisos permitting local levy of internal revenue taxes, prohibiting discrimination against imports, and directing the customs and postal services to assist in collecting taxes.

**INTERPRETIVE NOTES AND DECISIONS**

Collector of customs of Virgin Islands is charged with enforcement of such local laws of Virgin Islands as are within scope of his duty. 32 Op Atty Gen 422.

**§ 1396. Duties and taxes covered into island treasury**

The duties and taxes collected in pursuance of this Act shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of the Virgin Islands under such rules and regulations as the President may prescribe.

(March 3, 1917, ch 171, § 5, 39 Stat. 1133.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****References in text:**

"This Act", referred to in this section, is Act March 3, 1917, ch 171, 39 Stat. 1132, which is currently classified to 48 USCS §§ 1392, 1394-1396 and was classified to 48 USCS § 1391, prior to its repeal by Act Sept. 6, 1966, P. L. 89-554, § 8(a), 80 Stat. 632, 643.

**INTERPRETIVE NOTES AND DECISIONS****1. Generally****2. Disposition of other taxes****1. Generally**

Revenues encompassed by 48 USCS § 1396 do not at any time become public moneys of the United States. 34 Op Atty Gen 217.

**2. Disposition of other taxes**

Since act of March 3, 1917 (48 USCS §§ 1391, 1392, 1394-1396) imposes no tax upon manufacture of industrial alcohol, taxes collected on such product produced in Virgin Islands and shipped to United States cannot be used and expended for benefit of Islands, but must be covered into general fund of treasury of United States. 35 Op Atty Gen 63.

**§ 1397. Income tax laws of the United States in force; payment of proceeds; levy of surtax on all taxpayers**

The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United States, except that the proceeds of such taxes shall be paid into the treasuries of said islands: Provided further, That, notwithstanding any other provision of law, the Legislature of the Virgin Islands is authorized to levy a surtax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of the Virgin Islands.

(July 12, 1921, ch 44, § 1, 42 Stat. 123; Aug. 19, 1976, P. L. 94-392, § 5, 90 Stat. 1195.)

by U.S. federal agents because § 734 provides that Puerto Rican law prevails over federal law in matters of purely local concerns but where violations of federal law is charged, matter is not of purely local concern, and Congress has included Puerto Rico within definition of states for purposes of 18 USCS § 2510. *United States v Gerena* (1986, DC Conn) 649 F Supp 1183.

**13. Firearms**

Federal Firearms Act (15 USCS §§ 901 et seq.) applies to transportation wholly within Puerto Rico. *Rivera v United States* (1945, CA1 Puerto Rico) 151 F2d 47.

Under federal Firearms Act (15 USCS §§ 901 et seq.), defining "interstate or foreign commerce" as commerce "within any territory or possession", such law is not applicable to Puerto Rico after its acquisition of commonwealth status. *United States v Figueroa Rios* (1956, DC Puerto Rico) 140 F Supp 376.

**14. Immigration**

Immigration Act of Aug. 3, 1882 (22 Stat. 214), is given force and effect in Puerto Rico by 48 USCS § 734. 24 Op Atty Gen 86.

**15. Labor**

Occupational Safety and Health Act of 1970 (29 USCS § 651 et seq.) has been made explicitly applicable to Commonwealth of Puerto Rico. *Caribow Corp. v OSHRC* (1974, CA1) 493 F2d 1064, cert den (1974) 419 US 830, 42 L Ed 2d 55, 95 S Ct 52.

National Labor Relations Act applies to Puerto

Rico and is consonant with terms of compact defining commonwealth status; it coexists and does not conflict with Puerto Rico Labor Relations Act. *NLRB v Security Nat'l Life Ins. Co.* (1974, CA1) 494 F2d 336, 85 BNA LRRM 2737, 73 CCH LC ¶ 14384.

**16. Navigation and navigable waters**

Provisions of Federal Water Pollution Control Act Amendments of 1972 (33 USCS §§ 1251-1376) do not fall within limited exception of Puerto Rican Federal Relations Act (48 USCS § 734) for locally inapplicable federal statutes, but apply to both navigable and nonnavigable waters of Puerto Rico. *Puerto Rico v Alexander* (1977, DC Dist Col) 438 F Supp 90, 10 Env't Rep Cas 1575, 7 ELR 20751.

Coastal waters, harbors, and other navigable waters of Puerto Rico are waters of United States within meaning and intent of § 10 of River and Harbor Act of Mar. 3, 1899 (33 USCS § 403). 23 Op Atty Gen 551.

**17. Workers' compensation**

Longshoremen's and Harbor Workers' Compensation Act (33 USCS §§ 901 et seq.) does not apply to Puerto Rico since, by its terms, it is limited to those states and territories where recovery may not be had under local law and Puerto Rico provides for such recovery. *Guerrido v Alcoa S.S. Co.* (1956, CA1 Puerto Rico) 234 F2d 349; *Garcia v Friesoeke* (1979, CA1 Puerto Rico) 597 F2d 284, cert den (1979) 444 US 940, 62 L Ed 2d 306, 100 S Ct 292.

↙ **§ 734a. Extension of industrial alcohol and internal revenue laws to Puerto Rico**

Title III of the National Prohibition Act, as amended, and all provisions of the internal revenue laws relating to the enforcement thereof, are hereby extended to and made applicable to Puerto Rico [and the Virgin Islands], from and after August 27, 1935. The respective Insular Governments shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico and the Virgin Islands of the said sections and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection.

(June 26, 1936, ch 830, Title III, § 329(c), 49 Stat. 1957.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**References in text:**

"Title III of the National Prohibition Act", referred to in this section,

§ 100, 76 Stat. 339; July 26, 1963, P. L. 88-79, Title I, § 100, 77 Stat. 102; July 7, 1964, P. L. 88-356, Title I, § 100, 78 Stat. 278; June 28, 1965, P. L. 89-52, Title I, § 100, 79 Stat. 179; May 31, 1966, P. L. 89-435, Title I, § 100, 80 Stat. 174; June 24, 1967, P. L. 90-28, Title I, § 100, 81 Stat. 63; July 26, 1968, P. L. 90-425, Title I, § 100, 82 Stat. 430; Oct. 29, 1969, P. L. 91-98, Title I, § 100, 83 Stat. 151; July 31, 1970, P. L. 91-361, Title I, § 100, 84 Stat. 673; Aug. 10, 1971, P. L. 92-76, Title I, § 100, 85 Stat. 233; Aug. 10, 1972, P. L. 92-369, Title I, § 100, 86 Stat. 512; Oct. 4, 1973, P. L. 93-120, Title I, § 100, 87 Stat. 433, Aug. 31, 1974, P.L. 93-404, Title I, § 100, 88 Stat. 812; Dec. 23, 1975, P. L. 94-165, Title I, § 100, 89 Stat. 987; July 31, 1976, P. L. 94-373, Title I, § 100, 90 Stat. 1052; July 26, 1977, P.L. 95-74, Title I, § 100, 91 Stat. 295; Oct. 17, 1978, P. L. 95-465, Title I, § 100, 92 Stat. 1289; Nov. 27, 1979, P. L. 96-126, Title I, § 100, 93 Stat. 365; Dec. 12, 1980, P. L. 96-514, Title I, § 100, 94 Stat. 2969; Dec. 23, 1981, P. L. 97-100, Title I, 95 Stat. 1401; Dec. 30, 1982, P. L. 97-394, Title I, 96 Stat. 1979; Nov. 4, 1983, P. L. 98-146, Title I, 97 Stat. 931; Oct. 12, 1984, P. L. 98-473, Title I, § 101(c), 98 Stat. 1851; Dec. 19, 1985, P. L. 99-190, § 101(d), 99 Stat. 1238; Oct. 18, 1986, P. L. 99-500; Oct. 30, 1986, P. L. 99-591, Title I, § 101(h), 100 Stat. 3341-258; Dec. 22, 1987, P. L. 100-202, § 101(g) [Title I, § 1], 101 Stat. 1329-231; Sept. 27, 1988, P. L. 100-446, Title I, 102 Stat. 1797; Oct. 23, 1989, P. L. 101-121, Title I, 103 Stat. 716; Nov. 5, 1990, P. L. 101-512, Title I, 104 Stat. 1932; Nov. 13, 1991, P. L. 102-154, Title I, 105 Stat. 1007.

### § 1402. Extension of industrial alcohol and internal revenue laws to Virgin Islands

Title III of the National Prohibition Act, as amended and all provisions of the internal revenue laws relating to the enforcement thereof, are hereby extended to and made applicable to [Puerto Rico and] the Virgin Islands, from and after August 27, 1935. The respective Insular Governments shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in [Puerto Rico and] the Virgin Islands of the said Title III and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection [this section].

(June 26, 1936, ch 830, Title III, § 329(c), 49 Stat. 1957.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“Title III of the National Prohibition Act” and “said Title III”, referred to in this section, was Act Oct. 28, 1919, ch 85, Title III, 41 Stat. 319, which was generally classified to 27 USC §§ 71 et seq., and was omitted from the Code as superseded by the enactment of the Internal Revenue Code of 1939, and the subsequent enactment of the Internal Revenue Codes of 1954 and 1986.

(3) Execution shall not issue against the Governor or any officer or employee of the government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of Guam, in performing his official duties under the income-tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that—

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial income tax, together with fines, penalties, and forfeitures or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 22(a) of this Act [48 USCS § 1424(a)].

(Aug. 1, 1950, ch 512, § 31, 64 Stat. 392; Aug. 20, 1958, P. L. 85-688, § 1, 72 Stat. 681; Oct. 31, 1972, P. L. 92-606, § 1(d), 86 Stat. 1497; Oct. 15, 1977, P. L. 95-134, Title II, § 203(c), 91 Stat. 1162.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

The "income-tax laws", referred to in subsec. (d) and (f), appear generally as 26 USCS §§ 1 et seq.

The "Internal Revenue Code of 1939", referred to in subsec. (d)(1), (e) and (f), which was Act Feb. 10, 1939, ch 2, 53 Stat. 1, was repealed by Act Aug. 16, 1954, ch 736, 68A Stat. 919, which enacted the Internal Revenue Code of 1954. For application of the Internal Revenue Code of 1939, see 26 USCS § 7852(b).

The "Internal Revenue Code of 1954", referred to in subsec. (d)(1), (e) and (f), which was Act Feb. 10, 1939, ch 2, 53 Stat. 1, was redesignated as the Internal Revenue Code of 1986 by Act Oct. 22, 1986, P. L. 95-514, § 2(a), 100 Stat. 2095. In redesignating the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986, Congress provided, in Act Oct. 22, 1986, P. L. 95-514, § 2(b), 100 Stat. 2095, for construction of references to the Internal Revenue Code as follows: except when inappropriate, any reference in any law, Executive Order, or other document to the Internal Revenue Code of 1954 shall include a reference to the Internal Revenue Code of 1986 and any reference to the Internal Revenue Code of 1986 shall include a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

taxpayer's parent corporation in United States was received in Puerto Rico; lessee-taxpayer's right to sales receipts arose when sales were made and department store received sales proceeds as lessee-taxpayer's agent in Puerto Rico. Rev Rul 73-6, IRB 1973-1 p 21.

#### 8.—Internees

Where Navy pay which accrued each year that taxpayer was prisoner in Japan was less than 80% of his total gross income (taxpayer and his wife also received income while he was prisoner from rental of real property and from taxpayer's civilian employer), taxpayer and his wife were not entitled to exclude any income under provisions of predecessor statute. *Newman v Granger* (1956, DC Pa) 141 F Supp 37, affd (CA3 Pa) 239 F2d 384.

#### 9.—Employees of United States

Since "agency" was not defined by predecessor statute, it was intended by Congress that term be given its generally accepted meaning; application of such meaning dictated that court should consider possessions and dependencies, unless specifically excluded, within term "agency of the United States." *Bell v Commissioner* (1960, CA4) 278 F2d 100.

One who is employee of Government of American Samoa is employee of agency of United States within meaning of predecessor statute. *Bell v Commissioner* (1960, CA4) 278 F2d 100; *Butchart v United States* (1960) 151 Ct Cl 690; *Davis v Commissioner* (1958) 30 T Ct 462.

Where taxpayers were employed by agencies of United States located within legislative power of United States (Panama Canal Zone) taxpayers' income was "derived from sources within the United States." *Collins v United States* (1962) 156 Ct Cl 658, 299 F2d 949, cert den 371 US 827, 9 L Ed 2d 66, 83 S Ct 48.

Since Guam is "possession" for federal income tax purposes, United States citizens employed in Guam by government of Guam are not employees of United States or any of its agencies; amounts such citizens receive do not constitute income derived from sources within United States Rev Rul 67-354, CB 1967-2 p 261.

Kindergartens on military bases in United States possessions operated as part of Department of Defense Overseas Dependents Education Program are integral parts of United States agency and compensation for services performed under this program is not exempt. Rev Rul 71-264, CB 1971-1 p 217.

### § 932. Citizens of possessions of the United States.

(a) **General rule.** Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall be subject to taxation under this subtitle in the same manner and subject to the same conditions as in the case of a nonresident alien individual. This section shall have no application in the case of a citizen of Puerto Rico or Guam.

(b) **Virgin Islands.** Nothing in this section shall be construed to alter or amend the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes", approved July 12, 1921 (48 U.S.C. 1397), relating to the imposition of income taxes in the Virgin Islands of the United States.

(c) **Guam.** For provisions relating to the individual income tax in the case of Guam, see sections 935 and 7654; see also sections 30 and 31 of the Act of August 1, 1950 (48 U.S.C., secs. 1421h and 1421i).

(Aug. 16, 1954, Ch. 736, 68A Stat. 292; Nov. 13, 1966, P. L. 89-809, Title I, § 103(m), 80 Stat. 1554, Oct. 31, 1972, P. L. 92-606, § 1(f)(2), 96 Stat. 1497.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law:  
IRC 1939, § 252.

(d) "Income-tax laws" defined; administration and enforcement; rules and regulations

(1) The income-tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A [26 U.S.C.A. § 1 et seq.] (not including chapter 2 [26 U.S.C.A. § 1401 et seq.] and section 931 [26 U.S.C.A. § 931]); chapters 24 and 25 of subtitle C [26 U.S.C.A. §§ 3401 et seq. and 3501 et seq.], with reference to the collection of income tax at source on wages; and all provisions of subtitle F [26 U.S.C.A. § 6001 et seq.] which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75 [26 U.S.C.A. § 7201 et seq.]. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income-tax laws in force in Guam pursuant to subsection (a) of this section, such income-tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

Guam Income in 26 USC § 512

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial income tax as the Secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7654(c) of the Internal Revenue Code of 1954 [26 U.S.C.A. § 7654(e)] for enforcement of the Guam Territorial income tax shall be prescribed by the Governor. The Governor or his delegate shall have authority to issue, from time to time, in whole or in part, the text of the income-tax laws in force in Guam pursuant to subsection (a) of this section.

(e) Substitution of terms

In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Codes of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

↙

Exhibit 3 192

WHO ADMINISTERS TITLE 26

## BUDGET RECONCILIATION ACT

P.L. 101-239

[page 1415]

(such as the United States) if the corporation's primary location for tax jurisdiction purposes (e.g., its place of management and control) is in fact in that country, rather than its place of organization. Treasury has exchanged notes on exemption from tax on transportation income with numerous countries. Generally, in establishing the criteria for the reciprocal tax exemption on transportation income in the 1986 Act, Congress did not intend to condition the exemption of corporations organized in any particular country on that country's grant of an equivalent exemption covering corporations which are properly treated as residents of that foreign country under its tax laws. Thus, a foreign country could be viewed as generally providing U.S. corporations a tax exemption even if it does not exempt from tax corporations organized the United States, but treated as residents of that country under its laws, assuming those laws would treat a U.S. corporation as a local resident only on the basis that such corporation's center of management or control, or comparable attribute, was in that foreign country.

### *Possessions of the United States*

When Congress enacted the four percent tax on U.S. source gross transportation income, Congress anticipated that this tax, by increasing U.S. taxation of persons from foreign countries that have not provided reciprocal exemptions to U.S. persons, would encourage those foreign countries to amend their tax laws to provide such reciprocal exemptions.

→ The income tax laws of the United States are currently in effect, completely or partially, in Guam, the Commonwealth of the Northern Mariana Islands ("CNMI"), the U.S. Virgin Islands, and American Samoa as their own income tax systems. These jurisdictions are termed "possessions" of the United States for tax purposes. To transform the Code into a local tax code, each possession, in effect, substitutes its name for the name "United States" where appropriate in the Code. The possessions generally are treated as foreign countries for U.S. tax purposes. Similarly, the United States generally is treated as a foreign country for purposes of possessions taxation. This word-substitution system is known as the "mirror system." As a result of changes brought about by the 1986 Act, individual possessions are able to take steps that would permit them to amend their tax laws internally. As of this time, certain possessions have taken the necessary steps to permit such internal amendment, but others have not.<sup>90</sup>

Thus, for example, a U.S. corporation operating a transportation business traversing a route between a possession on the mirror system and the United States would generally be subject in the possession to the four percent tax on the *possession* source gross transportation income, unless United States law provides an exemption from the equivalent tax for corporations organized in the possession. Similarly, a corporation organized in that possession operating on the same route would generally be subject in the United

<sup>90</sup> Under the 1986 Act, Guam, CNMI, and American Samoa are eligible to amend their internal income tax laws independently of the Code as mirrored, upon the effective date of an "implementing agreement" between the possession and the United States. To date, American Samoa has an implementing agreement in effect, and Guam has entered into such an agreement effective 1991.

or any intention of fraud on the part of the owner of said property."<sup>2</sup>

[8] Where the value exceeds \$500 or bond is given, forfeiture must be sought in court through a libel in rem.

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United States v. Two Bay Mules, D.C., 36 F. 84; United States v. Mincey, 5 Cir., 254 F. 287, 5 A.L.R. 211; Logan v. United States, 5 Cir., 260 F. 746; United States v. One Bay Horse, D.C., 270 F. 590.

Section 3229 Revised Statutes, Act July 20, 1868, c. 186, sec. 102, 15 Stat. 125, 166, 26 U.S.C.A. § 1661, provides—

<sup>2</sup> Revised Statutes sections 3460 and 3461. Act July 13, 1866, c. 184, sec. 63, 14 Stat. 98, 169; Act June 6, 1872, c. 315, sec. 40, 17 Stat. 230, 257, 26 U.S.C.A. § 1624—

"Sec. 3460. In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of the internal-revenue laws, which, in the opinion of the collector or deputy collector making the seizure, are of the appraised value of five hundred dollars or less, the said collector or deputy collector shall, except in cases otherwise provided, proceed as follows:

\* \* \* \* \*

"Second. If the said goods are found by the said appraisers to be of the value of five hundred dollars or less, the said collector or deputy collector shall publish a notice, for three weeks, in some newspaper of the district where the seizure was made, describing the articles, and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice.

"Third. Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the said collector or deputy collector a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of two hundred and fifty dollars, with sureties to be approved by the said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney

"The Commissioner of Internal Revenue with the advice and consent of the Secretary of the Treasury, may

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compromise a civil or criminal case arising under the internal-revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney-General, I may compromise any such case after a suit thereon has been commenced. Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or of the officer ac-

for the district, and said attorney shall proceed thereon in the ordinary manner prescribed by law.

"Fourth. If no claim is interposed and no bond is given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall sell the articles so seized at public auction, and, after deducting the expense of appraisement and sale, he shall deposit the proceeds to the credit of the Secretary of the Treasury.

"Sec. 3461. Within one year after the sale of any goods, wares, or merchandise, as provided in the preceding section, any person claiming to be interested in the property sold may apply to the Secretary of the Treasury for a remission of the forfeiture thereof, or of any part thereof, and a restoration of the proceeds of the sale; and the said Secretary may grant the same upon satisfactory proof, to be furnished in such manner as he shall prescribe: Provided, That it shall be satisfactorily shown that the applicant, at the time of the seizure and sale of the said property, and during the intervening time, was absent, out of the United States, or in such circumstances as prevented him from knowing of the seizure, and that he did not know of the same; and also that the said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner of said property. If no application for such restoration is made within one year, as hereinbefore prescribed, the Secretary of the Treasury shall, at the expiration of the said time, cause the proceeds of the sale of the said property to be distributed according to law, as in the case of goods, wares, or merchandise condemned and sold pursuant to the decree of a competent court."

United States v. One 1936 Model Ford V-8 DE Lute Coach  
59 S.Ct. 861 307 U.S. 219

# CHRONOLOGY OF EVENTS FOR IRS/BATF/SS

<i>THE EVENT</i>	<i>REFERENCE</i>
FDR RAMS FEDERAL ALCOHOL ADMINISTRATION ACT THROUGH CONGRESS.	27 USC, CH. 8
SUPREME COURT STRIKES DOWN FAA	29 AUG. '35
CONGRESS AMENDS THE CARLISLE ACT & MOVES FAA TO PUERTO RICO	CARLISLE ACT
FAA OPERATES FROM PUERTO RICO	27 USCS 201
CONGRESS PASSES THE "VICTORY TAX" DURING WWII. TAX COLLECTED ON FORM 1040 BY BUREAU OF INTERNAL REVENUE, PUERTO RICO. THEY KEEP SENDING OUT 1040'S TO (1ST) FEDERAL EMPLOYEES, (2ND) CIVIL SERVANTS, (3RD) TEACHERS, ETC.	VICTORY TAX
"BIR" BECOMES "IRS" BY STROKE OF THE PEN OF SECR. OF TREASURY ON 7/7/53.	TO 150-06
"IRS" IS SPLIT INTO TWO FUNCTIONS: "IRS" AND "BATF" BY ANOTHER STROKE OF A PEN FROM ACTING SECR. OF TREASURY ON 6/6/72	TO 120-01
"IRS" ADMINISTERS TAXES ON ALCOHOL, TOBACCO & FIREARMS	26 USC 51,52,53
"BATF" ASSESSES, COLLECTS AND ENFORCES TAXES ON ALCOHOL, TOBACCO & FIREARMS	26 USC 61-80
THE "IRS" AND "BATF" ARE NOT SEPARATE TAXING AUTHORITIES. THEY ARE SIMPLY SECTIONS OF THE FAA IN PUERTO RICO!	27 USCA 201
THE REAL NAME OF THE IRS/BATF IS THE FEDERAL ALCOHOL ADMINISTRATION OF PUERTO RICO	RESEARCH CONCLUSION
THE U. S. CONSTITUTION (CORPORATE) <u>MAY BE</u> THE CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO!	ON-GOING RESEARCH EFFORT

(NOTE: This data in all older issues of USC ~ it has been *removed* in current USC!!)

## The Career-Politicians' Creed

*We will tax, tax, tax . . . spend, spend, spend . . . and the voters will re-elect us, re-elect us, re-elect us!—because they're TOO DAMN DUMB to understand!*

*(Harry Hopkins, an adviser to former President Franklin Roosevelt)*

We tax his pay tax his play,  
Even tax his time of day;  
We tax his shirt and tax his coat,  
Tax his car and tax his boat,  
We tax his food and tax his drink,  
Tax him good...so he can't think!  
We tax his house, tax his chair,  
By taxing his comb we tax his hair.  
By taxing his pills we tax his health,  
With taxes on taxes we steal his wealth!  
And when he's sick we'll tax his bed,  
Tax him till he's good'n dead!  
Then we'll place upon his tomb,  
**"Taxes drove me to my doom."**  
But after he's gone WE won't relax,  
We'll steal his kid's home with an inheritance tax!

If you could legally print "paper-dollars" in an unlimited amount, would you need to borrow, pile-up mountains of debt, and then tax the people for repayment? Of course NOT! And neither does Congress! Article I, Section 8, of The Constitution for the United States of America, delegates to Congress, the *exclusive power* to create the United States Money-Supply. But Congress ignores this *most important* of its duties, and allows a **privately owned** banking cartel called the Federal Reserve Banks (*a very deceptive name*) buy ALL of the currency printed by the United States Treasury for less than three cents per \$100! Then, these banks loan at FULL face amount plus compounding interest, their *unbacked, non-redeemable* dollar-bills (*that costs them next to nothing*) and the credit based on them, into circulation and **back** to the government as a huge national debt owed to *themselves!* The income tax was established to return the credit based on the banks' "paper dollars" to them: to *force perpetual borrowing* and the resulting alleged debt! If this hokus-pokus is not the world's biggest crime upon We, the American People . . . then what is it??

*Please help awaken fellow Americans to how they are BEING ROBBED! ...by making copies of this one to post, mail and/or fax to others.*

DEPOSIT ACCOUNT AGREEMENT  
(for Consumer and Business Accounts)

This booklet contains the rules and regulations governing consumer and business deposit accounts at Bank One. By signing a Bank One services application or deposit account signature card, or by otherwise opening or maintaining an Account with Bank One, you accept and agree to be bound by the terms and conditions of this Deposit Account Agreement ("Agreement"), as well as all applicable state and federal laws and regulations. Inserts to this Agreement entitled "More Specifics About Your Account" ("More Specifics") and "Miscellaneous Fees" list the deposit accounts available at Bank One and applicable fees and charges and are adopted and incorporated into this Agreement by reference and shall apply to each deposit account you have with Bank One.

As used in this Agreement, Bank One or "Bank" means the Bank One affiliate identified in the "More Specifics." "You" or "your" means each person or entity in whose name the Account at the Bank is maintained or who exercises an ownership interest therein, any assignee or successor in interest to the Account and any designated attorney-in-fact. "Account" means each deposit account you have with the Bank. References to "your state" mean the state in which the principal office of the Bank is located.

GENERAL RULES FOR CONSUMER AND BUSINESS ACCOUNTS

Sharing Information:

The Bank may provide information about you or your Account, including information provided on your Bank services application or deposit account signature card, to all other bank and non-bank affiliates of the Bank as well as to credit and check reporting agencies. The Bank may also provide, from time to time, information to third parties and respond to requests for information about your Account or the Bank's credit or other experiences with you. By opening or using your Account, you authorize and consent to the sharing of this information by the Bank.

Interest Earning Accounts:

Unless your interest earning Account is described in the "More Specifics" as having an interest rate that is fixed, your Account will be a variable rate account on which the interest rate and annual percentage yield may change. The Bank may change the interest rate and annual percentage yield on your variable rate Account during each time period set forth in the "More Specifics" or, if no time period is set forth, then at any time, all without notice to you. The Bank does not impose a limit on the amount the interest rate and annual percentage yield on your Account may change.

For both variable rate and fixed rate accounts, the Bank uses the daily balance method to calculate interest. This method applies a daily periodic rate to the principal balance in your Account each day, which may be based either on collected or ledger balances as set forth in the "More Specifics," depending upon the type of deposit account you have with the Bank. The collected balance is the balance of all deposits in your Account on which the Bank has received credit for the deposited funds (determined by the availability schedule of the Bank's Federal Reserve Bank). The ledger balance is the balance in your Account without regard to credit or availability. This method is also used to obtain the annual percentage yield disclosed. On consumer accounts, interest is computed on a 365/366 day basis unless otherwise indicated in the "More

fees for check printing or for changes in any term on a one (1) CD effective upon maturity.

Section Titles:

Section titles in this Agreement are for convenience only and are not to be construed as part of the Agreement or as a limit on a particular section to which they refer.

Rules Governing Your Account:

Your Account is governed by all rules and regulations of applicable federal law and the laws of your state, including those you may modify the terms of this Agreement or the "More Specifics." All deposits, items transmitted for collection, and any other transactions concerning your Account are subject to applicable check clearinghouse rules and Federal Reserve rules and regulations. You agree to hold the Bank harmless for acting upon your instructions or failing to act on your instructions when the Bank reasonably believes that to do so would cause it to be exposed to civil or criminal liability.

Notwithstanding any other provision herein, this Agreement and any Agreement insert may be changed or terminated with notice to the extent necessary to comply with any law or regulation of any appropriate federal or state authority.

If a conflict exists between any provision of this Agreement and the "More Specifics," the latter shall control. If a conflict exists between any provision of this Agreement and any statement made by any employee of the Bank or BANC ONE CORPORATION or any of their subsidiaries, this Agreement and the applicable inserts will control.

Successors and Assignments:

This Agreement shall be binding on your personal representative, executors, administrators, and successors. The benefits and responsibilities of this Agreement shall also transfer to and binding upon the Bank's successors and assigns.

You may not transfer, assign or grant a security interest in (collectively, "assign") your Account without the written consent of the Bank, and no assignment will be valid, nor will the Bank be deemed to have knowledge of or be bound by such assignment until the Bank has noted that fact in its records. However, by noting the assignment, the Bank does not attest to or have any responsibility for the validity of the assignment. You understand that an assignment of your Account is subject to the Bank's right of set-off.

INDIVIDUAL RETIREMENT ACCOUNT (IRA) (CONSUMER)

This Agreement, including the "More Specifics," contains the rules and regulations governing the Bank One Money Market IRA deposit account. In addition, all Bank IRA deposit accounts, including the Bank One Money Market IRA, are governed by certain terms of deposit that are set forth on or with the instrument or receipt evidencing your IRA deposit, as well as the disclosures and custodial agreement set forth in the document entitled "Everything You Wanted to Know About Your IRA." Please consult those documents for this additional information regarding your IRA deposit account.

CERTIFICATES OF DEPOSIT (CONSUMER AND BUSINESS)

The terms of your CD, including the penalties for early withdrawal, are set forth on or with the instrument or receipt evidencing your time deposit. Where no certificate is issued, a CD Deposit Receipt will be provided or made available to you. Please refer to the CD or CD receipt for information regarding your CD at the Bank.

Account Rules and regulations  
contact VIPL, Box 463, Owensville, Ohio  
p. 2. 45160  
Send 12<sup>th</sup> and 95K for IRS



**Ad filum viæ** /æd fáyləm váiy/. To the middle of the way; to the central line of the road.

**Ad finem** /æd fáynəm/. Abbreviated *ad fin.* To the end. It is used in citations to books, as a direction to read from the place designated to the end of the chapter, section, etc. *Ad finem litis.* at the end of the suit.

**Ad firmam** /æd fərməm/. To farm. Derived from an old Saxon word denoting rent. *Ad firmam noctis* was a fine or penalty equal in amount to the estimated cost of entertaining the king for one night. *Ad feodi firmam.* to fee farm.

**Ad fundandam jurisdictionem** /æd fəndəndəm jürəsdikshiyównəm/. To make the basis of jurisdiction.

**Ad gaolas deliberandas** /æd jeyləs dəlibərəndəs/. To deliver the gaols; to empty the gaols. *Ad gaolam deliberandam;* to deliver the gaol; to make gaol delivery.

**Ad gravamen** /æd grævəymən/. To the grievance, injury, or oppression.

**Adhering.** Joining, leagued with, cleaving to; as, "adhering to the enemies of the United States." "Adhering" consists in giving to the United States the loyalty due from a citizen. *United States v. Stephan, D.C.Mich., 50 F.Supp. 738, 741.* Any intentional act furthering hostile designs of enemies of the United States, or an act which intentionally strengthens or tends to strengthen enemies of the United States, or which weakens or tends to weaken power of the United States to resist and attack such enemies, constitutes "adhering" to such enemies. *United States v. Haupt, D.C.Ill., 47 F.Supp. 836, 839.*

**Adhesion.** Agreement to join; adherence. The entrance of another nation into an existing treaty with respect only to a part of the principles laid down or the stipulations agreed to. Properly speaking, by adhesion the third nation becomes a party only to such parts as are specifically agreed to, and by accession it accepts and is bound by the whole treaty. *See Accession.*

**Adhesion contract.** Standardized contract form offered to consumers of goods and services on essentially "take it or leave it" basis without affording consumer realistic opportunity to bargain and under such conditions that consumer cannot obtain desired product or services except by acquiescing in form contract. Distinctive feature of adhesion contract is that weaker party has no realistic choice as to its terms. *Cubic Corp. v. Marty, 4 Dist., 185 C.A.3d 438, 229 Cal.Rptr. 828, 833; Standard Oil Co. of Calif. v. Perkins, C.A.Or., 347 F.2d 379, 383.* Recognizing that these contracts are not the result of traditionally "bargained" contracts, the trend is to relieve parties from onerous conditions imposed by such contracts. However, not every such contract is unconscionable. *Lechmere Tire and Sales Co. v. Burwick, 360 Mass. 713, 720, 721, 277 N.E.2d 503.*

**Adhibere** /ædhəbəriy/. In the civil law, to apply; to employ; to exercise; to use *Adhibere diligentiam,* to use care. *Adhibere vim,* to employ force.



Banks—When the Federal Reserve Act was passed, the Secretary of the Treasury was authorized to make use of the Federal Reserve banks for fiscal purposes. The Independent Treasury System was continued, however. Thus the government's funds were distributed among the Federal Reserve banks, the national banks, the United States Treasury, and the subtreasuries. On January 1, 1916, the Secretary of the Treasury designated the Federal Reserve banks as fiscal agents of the United States Government and announced that national banks in cities in which Federal Reserve banks were located would be discontinued as depositories of government funds, except for one or two institutions which would be permitted to hold post office and federal court deposits.

→ On May 29, 1920, Congress passed an act authorizing the Secretary of the Treasury to discontinue the subtreasuries on or before July 1, 1921. With the closing of the nine subtreasuries, their functions were authorized to be transferred by the Secretary of the Treasury, in his discretion, to the Treasurer of the United States, to the mints or assay offices of the United States, or to any of the Federal Reserve banks acting as depositories or fiscal agents of the United States. By this means, an annual saving of about \$25,000,000 was effected for the government, and the disturbing influence of the Independent Treasury System was also eliminated from the money market. At present, the funds of the government may be held by the Treasury Department, by the Federal Reserve banks, by national banks outside of Federal Reserve bank cities (except as hereinbefore

noted), and by state banks which are members of the Federal Reserve System.

Acting as fiscal agents of the United States Government, the Federal Reserve banks render a wide variety of services. They hold a large share of the funds of the government, on which they pay no interest. Formerly, they paid to the government a franchise tax, which many considered in part as taking the place of an interest payment for the use of its funds. The United States is the largest customer of the Federal Reserve banks. They make loans directly to the government for one day or longer. Resort to the reserve banks for short term loans is especially common on tax dates. The Federal Reserve banks also market the government's short term certificates of indebtedness and its long term bonds. During and immediately following the World War, they were concerned with financing the needs of the United States Government through the flotation of the liberty and victory loans. They also cash coupons and pay maturing bonds.

#### Federal Reserve Banks as Redemption Agencies

—The Federal Reserve banks redeem the paper money issued by the government and also the subsidiary silver and minor coins. They exchange various forms and issues of money for member and non-member banks, retiring coins that are light weight and paper money that is unfit for circulation. Any particular kind of money needed by a bank for counter purposes may be obtained from the Federal Reserve banks by offering suitable payment. Coin counting machines have been

The most Secret Science by Archibald E. Roberts Lt.  
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be helpful to identify the origins of the Federal Reserve System itself. Very briefly, without going into a lot of historical background, we can quote Colonel Ely Garrison who was a friend and financial advisor to President Theodore Roosevelt and President Woodrow Wilson, who was President at the time the Federal Reserve Act was passed. In his autobiographical book which is entitled, *Roosevelt, Wilson and the Federal Reserve Act*, Garrison wrote, and I quote, "Mr. Paul Warburg was the man who got the Federal Reserve Act together after the Aldrich plan aroused such nationwide resentment and opposition. The master mind of both plans," declared Garrison, "was Alfred Rothschild of London," end of quote.

Now to identify the real owners of the Federal Reserve which is your question sir, . . . Mr. Chairman, I would like to quote from sources from Switzerland and Saudi Arabia who were queried on the real owners of the Federal Reserve. Mr. Chairman and sir, we do not mean the managers of the twelve Federal Reserve banks who merely run the banks for the owners, the real owners. Nor do we mean the members of the Federal Reserve Board who merely make decisions in line and in consonance with the directions they receive from the real owners of the Federal Reserve. We certainly don't mean those who sit on the Open Market Committee of the Federal Reserve which we mentioned earlier in this presentation. We mean the real owners of the Federal Reserve. Mr. Chairman, this has been the best kept secret of this century. And it is the best kept secret because of a proviso on passage of the Federal Reserve Act. It was agreed that no information would be released on the Class A stockholders of the Federal Reserve. But, a Mr. R.E. McMaster, publisher of a newsletter, *The Reaper*, asked his Swiss and Saudi Arabian contacts which banks hold controlling interest in the Federal Reserve System. This was the answer received, and I quote, "Owner number one, Rothschild Banks of London and Berlin; Owner number two, Lazard Brothers Banks of Paris; Owner number three, Israel Moses Seif Banks of Italy; Owner number four, Warburg Bank of Hamburg and Amsterdam; Owner number five, Lehman Brothers Bank of New York; Owner number six, Kuhn, Loeb Bank of New York; Owner number seven, Chase Manhattan Bank of New York." Mr. Chairman, it is the Chase Manhattan Bank which controls all of the other

eleven Federal Reserve Banks. Finally, "Owner number eight, Goldman, Sachs Bank of New York."

Mr. Chairman, sir, there are approximately three hundred people, all known to each other and sometimes related to one another, who hold stock or shares in the Federal Reserve System. They comprise an interlocking, international banking cartel of wealth beyond comprehension.

Q: You mentioned Class A stockholders. Now who would they be? The same bank members?

ROBERTS: These are the three hundred, sir, Mr. Chairman. These are the same three hundred that I mentioned at the end of this presentation who are Class A stockholders. We are in the process, of course, of seeking to identify these by name and address, but you can understand the difficulty of such investigative process. In fact, we are still in the process of locating the Articles of Incorporation of the Federal Reserve at the time it was passed in 1913. Again, we are obviously confronted by a massive wall of silence. So it is a difficult task. But nonetheless, we have made some breaches in their defense.

Q: What are the names of those eight members. I didn't get a chance to write them down.

ROBERTS: Mr. Chairman, sir, the listed names of the banks which own the Federal Reserve in the United States are in the copy of my presentation left with your secretary.

Q: Mr. Chairman, sir, supposing we had enough states to ratify this proposition and we stalled and curtailed the Federal Reserve Board. Do we have a plan where we could continue business as usual?

ROBERTS: Mr. Chairman, the question, of course is a very explicit one and that is that it really asks are we able to continue operating the economy without the Federal Reserve. I would point out, Mr. Chairman, sir, that the United States of America operated until 1913 without the service of the Federal Reserve through the existing agencies of government which still exist and function today. But the real control has been usurped from these agencies, authorized under the Constitution, and their power has been limited to merely approving what decisions are made by the owners of the Federal Reserve. So to answer your question, of course we'd continue the economy, but without paying the horrendous interest rates to the owners of the Federal Reserve. I would

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60

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MONETARY FUND  
1945-1965

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VOLUME I: CHRONICLE

By  
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INTERNATIONAL MONETARY FUND  
WASHINGTON, D. C.

1969

## CHAPTER

# 5

## Bretton Woods (July 1944)

↙ THE INTERNATIONAL MONETARY and Financial Conference of the United and Associated Nations was convened at the Mount Washington Hotel, Bretton Woods, New Hampshire, on July 1, 1944.<sup>1</sup> The location of the Conference had been a matter of some difficulty, partly owing to wartime restrictions. The Mount Washington Hotel, closed since 1942, was being prepared for reopening when taken over for the Conference, and the much-needed renovations were not wholly completed by the time the delegates began to arrive. The hotel is situated at the foot of Mount Washington, in extensive wooded grounds. These are separated from the road by a river crossed by a single bridge—a feature which readily permitted the proceedings to be safeguarded against intrusion. As it turned out, not all the 730 persons who attended—a number about three times as large as had originally been expected—could be accommodated at the Conference headquarters, and other hotels, up to five miles off, had to be utilized to house the overflow, mainly of technicians.

### ORGANIZATION OF THE CONFERENCE

Originally, the Conference had been expected to last a little less than three weeks, dispersing on Wednesday, July 19. The Hot Springs Conference in 1943, from which had emerged the Interim Food and Agriculture Organization, had lasted only ten days, and it had been thought that twice this length of time would suffice for Bretton Woods. In any case, the U.S. Treasury had been anxious to terminate the Conference early enough for its results to be available before the election campaign began. The imminence of the Democratic Convention and of President Roosevelt's renomination there, due on July 20, may similarly have

<sup>1</sup> The Conference documentation has been reproduced in *Proceedings and Documents of United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 1-22, 1944* (Department of State, Washington, 1948), hereafter cited as *Proceedings*.

influenced the proposed closing date. As things turned out, however, it proved impossible to complete the task of the Conference by the nineteenth, and its termination was postponed until Saturday, July 22, the delegates leaving the hotel on the following day. As this involved the management of the hotel in postponing the arrival of numerous guests who had reserved accommodation from the twentieth, the negotiation of the extension of time was not without difficulty.

In addition to the delegates from the 44 members of the United and Associated Nations, the Conference was attended by a representative of Denmark and delegations from the International Labor Office, the United Nations Relief and Rehabilitation Administration, the Economic Section of the League of Nations, and the United Nations Interim Commission on Food and Agriculture. The official language of the Conference was English, but some difficulty was caused by the imperfect acquaintance of some delegations with this language.

Secretary Morgenthau was elected Permanent President of the Conference, and representatives of Australia, Belgium, Brazil, and the U.S.S.R. were elected Vice-Presidents. The Conference operated through three Commissions: Commission I on the Fund, chaired by White; Commission II on the Bank, chaired by Keynes; and Commission III on Other Means of International Financial Cooperation, chaired by Mr. Eduardo Suarez of Mexico.

Commission I, with which we shall here be concerned almost exclusively, had as Reporting Delegate Mr. Louis Rasminsky (Canada). It was divided into four main committees, appointed on July 4, as shown in Table 1. In addition to these main committees, a Steering Committee, of which Secretary Morgenthau was chairman, was appointed on July 3. Eight ad hoc committees were appointed to deal with special topics, three on July 8, four on July 10, and one on July 15. The Commission appointed a Drafting Committee on July 10 and a Special Committee on Unsettled Problems on July 13. The committees in turn appointed drafting subcommittees.

Table 1. Bretton Woods: Organization of Commission I

Number and Subject of Committee	Chairman	Reporting Delegate
1. Purposes, Policies, and Quotas of the Fund	Tingfu F. Tsiang (China)	Kyriakos Varvaressos (Greece)
2. Operations of the Fund	N. A. Maletin (U.S.S.R.)	Robert Mossé (France)
3. Organization and Management of the Fund	Arthur de Souza Costa (Brazil)	Ervin Hexner (Czechoslovakia)
4. Form and Status of the Fund	Manuel B. Llosa (Peru)	Wilhelm Keilhau (Norway)

Source: *Proceedings*, pp. 88-90, 405-11.

IMF



Section 9. Immunity from taxation

(a) The Fund, its assets, property, income and its operations and transactions authorized by this agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(c) No tax of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held

(i) which discriminates against such obligation or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.”

INTERNATIONAL MONETARY FUND AND BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

**§ 286. Acceptance of membership by United States in International Monetary Fund**

The President is hereby authorized to accept membership for the United States in the International Monetary Fund (hereinafter referred to as the "Fund"), and in the International Bank for Reconstruction and Development (hereinafter referred to as the "Bank"), provided for by the Articles of Agreement of the Fund and the Articles of Agreement of the Bank as set forth in the Final Act of the United Nations Monetary and Financial

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**22 USCS § 286**

FOREIGN AFFAIRS

Conference dated July 22, 1944, and deposited in the archives of the Department of State.

(July 31, 1945, ch 339, § 2, 59 Stat. 512.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Short titles:**

Act July 31, 1945, ch 339, § 1, 59 Stat. 512, provided: "This Act [22 USCS §§ 286 et seq.; for full classification of such Act, consult USCS Tables volumes] may be cited as the 'Bretton Woods Agreements Act'."

**Other provisions:**

**Par value modification.** For the Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the Inter-American Development Bank's holdings of United States dollars following the establishment of a par value of the dollar at \$38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriations necessary to provide such maintenance of value, see 31 USCS § 449a.

**CROSS REFERENCES**

Export-Import Bank, 12 USCS §§ 635-635n.

Advancement of human rights through United States assistance policies with international financial institutions, 22 USCS § 262d.

United States membership in the United Nations Food and Agriculture Organization, 22 USCS §§ 279-279d.

Maintenance of value of dollar holdings of International Monetary Fund and international development lending institutions, 31 USCS § 449a.

**RESEARCH GUIDE**

**Am Jur:**

54 Am Jur 2d, Money § 36.

**Law Review Articles:**

Aspects of the Relations of the International Monetary Fund with its Developing Members. 10 Colum J Transnat L 267, 1971.

**§ 286a. Appointments**

(a) **Governors and executive directors; term of office.** The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as a governor of the Bank, and an executive director of the Fund and an executive director of the Bank. The executive directors so appointed shall also serve as provisional executive directors of the Fund and the Bank for the purposes of the respective Articles of Agreement. The term of office for the governor of the Fund and of the Bank shall be five years. The term of office for the executive directors shall be two years, but the executive directors shall remain in office until their successors have been appointed.

originally passed by the Congress in 1864 and has remained substantially unchanged. Corresponding provisions in the law also relate to banks other than national banks.

Section 53 provides that if the directors of a national bank knowingly violate or knowingly permit the officers or employees of the bank to violate any of the other provisions of the Act,<sup>20</sup> every director who participated in the violation or consented to it shall be liable, personally and individually, for any damage resulting from the violation, whether the damages are to the bank itself, its shareholders, or any other person.

12 USC, chapter 2

**"In one case, the directors of a bank were so sadly neglectful of their duties that the court held that they 'knowingly' violated the law, even though they did so without any real knowledge."**

The word "knowingly" is of particular importance. Obviously, if a bank director is fully aware of what he is doing, and intends to do something that is a violation of the law, there is no question that he can be held liable for damages resulting from his actions. However, the courts have not limited the word to that meaning. Liability will be imposed on bank directors for "knowingly" permitting a law to be violated "if he deliberately refrained from investigating that which it was his duty to investigate."<sup>21</sup>

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In one case, the directors of a bank were so sadly neglectful of their duties that the court held that they "knowingly" violated the law, even though they did so without any real knowledge. What happened was that the bank had been victimized by an embezzlement, which the bank's internal audit procedures had failed to disclose. When this fact was eventually discovered, the directors took no action to correct the obvious deficiencies in the audit procedures. Some years later, another embezzlement took place. The directors appointed four employees of the bank to conduct an audit, and the employees reported that the losses were in the neighborhood of \$80,000. Relying upon this information, the directors proceeded to declare a dividend for the bank's stock-

from: American Bankers Association

holders, since the bank showed a profit even after the \$80,000 in embezzlement losses had been deducted. It was later discovered, first, that the losses were really \$359,000; second, that two of the investigators appointed by the directors were themselves embezzlers; and third, that the bank showed an overall loss rather than a profit for the year. The directors were found liable for civil damages, since they had violated the law forbidding a national bank to pay dividends in excess of profits, and they had done so knowingly. Under the circumstances, they should have known and, in fact, had an obligation to know that the audit procedures were inadequate.<sup>22</sup> Ignorance is no excuse where the directors have a duty to know.

115 F. 2d 548

However, in another similar case, the court held that the directors were not liable for damages. Here, the president of the bank had been committing forgeries and was embezzling from the bank. Before his offenses were discovered, he had been a highly respected member of the community, and there was no conceivable reason why the directors should have suspected him of anything. Also, a series of independent audits by highly qualified

**"Ignorance is no excuse where the directors have a duty to know."**

certified public accountants had failed to disclose anything wrong. Examinations by state and federal authorities had revealed several minor and unrelated problems with respect to the operation of the bank, and without fail the directors had moved to correct these deficiencies. None of the directors, except the president himself, had participated in the forgeries or the frauds. Under these circumstances, the court felt that the directors had properly and carefully carried out their duties. They could not be said to have "knowingly" permitted violations of the law.<sup>23</sup>

361 F. Supp. 133

Other examples of civil liability arising from violations of the Act causing damage to others include the following: One section of the Act forbids a national bank to make loans to any one entity that exceed 10 percent of the unimpaired capital and surplus

## GENERAL INCOME

7. To temporarily access Document Request screen, press <Alt/F5>.

8. Press <F2> or <F3> to save.

### DELETE INCOME ITEMS

1. With cursor on line to delete press <Alt/F3> and then <Y>.

### SORT INCOME ITEMS

1. To sort General Income, press <Shift/F10> and select sort choices.

2. Press <F8> or <Enter> after third sort choice to sort.

3. Press <Esc> to reaccess detail screen.

### VIEW SUMMARY

1. From the General Income screen, press <F7>. No entries can be made.

2. Press <F7> to return to detail screen.

### PRINT

1. Press <Print Screen> to print any General Expense screen.

2. The General Income Summary and Detail reports are printed with the workpapers from the System 1040 Menu option EXAMINATION option PRINT WORKPAPERS.

*Banking  
Privacy*

## BANK DEPOSIT ANALYSIS

### ANALYZE BANK DEPOSITS

Use this to record and analyze bank account deposits for up to 15 accounts and to determine the amount of unreported or unexplained deposits.

### ACCESS

1. System 1040 Menu

EXAMINATION

SPECIAL APPLICATIONS

INCOME APPLICATIONS

BANK DEPOSIT ANALYSIS

### BANK DEPOSIT ANALYSIS SCREENS

There are five Bank Deposit Analysis screens:

1. Gross Receipts Summary of Bank Accounts screen is used to input all bank accounts.

2. Gross Receipts Bank Deposit Analysis screen is used to input deposits for a particular bank account.

3. Gross Receipts Bank Deposit Analysis - Detail screen is used to input detail for a particular deposit.

4. Bank Account Deposit Summary screen computes the over or understatement of gross receipts for one bank account.

5. Deposits Summary - All Accounts screen computes the over or understatement of gross receipts for

## Structural Organization of Title

First, a short explanation regarding the organization of the Tax laws in the United States Code. The tax law of the United States of America is in Title 26 of the United States Code (Internal Revenue Code). Title 26 is broken into a number of Subtitles, each Subtitle being a distinct and separate section of the law as the table below shows:

<u>Tax or Topic</u>	<u>Subtitle</u>	<u>Chapters</u>	<u>Sections</u>
Income Taxes	A	1 to 6	1
Estate & Gift Taxes	B	11	2001
Employment Taxes	C	21 to 25	3101
Miscellaneous Excises	D	31 to 47	4041
Alcohol, Tobacco and Certain other Excises	E	51 to 54	5001
<b>Procedure and Administration</b>	<b>F</b>	<b>61 to 80</b>	<b>6001</b>
Joint Committee on Taxation	G	91 to 92	8001
Financing Presidential Election Campaigns	H	95 to 96	9001
Trust Fund Code	I	98	9500

This examines the laws under Subtitle A Income taxes, Subtitle C Employment taxes and Subtitle F Procedure and Administration which applies and implements the other Subtitles under the law. The code sections we just looked at 6001, 6011, and 6012 are all from Subtitle F. Income taxes are in Subtitle A, consisting of chapters 1 to 6 of Title 26, Employment taxes are in Subtitle C, consisting of chapters 21-25.

It is important to understand that each Subtitle establishes a distinct and separate program, or "tax", with its own individual authority to administer within that Subtitle, over its code sections. These authorities do *not* automatically cross over into the other Subtitles and *cannot* be invoked as an authority in the other Subtitles unless it is shown as applicable within the law and its provisions (regulations).

Each Subtitle imposes its own tax and establishes the groups of persons subject to that tax within that specific subtitle. Just because one group of people is subject to one tax under one subtitle, does not necessarily imply that group is automatically also subject to the taxes imposed by other subtitles. To demonstrate this point one could ask, "Do you pay Subtitle E taxes?" For most people, the answer is a resounding, "NO". Why not? Isn't everyone subject to the law? The answer, of course, is that the group of persons subject to Subtitle E taxes are those people who engage in the manufacture and sale of alcohol and tobacco products.

As you will see, the group of people who are subject to the Subtitle C Employment Tax laws are those people who have voluntarily chosen to participate in the Social Security program. Who, then is the subject of Subtitle A Income Tax laws and what exactly is the true nature of this tax and its associated filing requirements?

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## SIXTEENTH AMENDMENT

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

**Source.** That from which any act, movement, information, or effect proceeds. A person or thing that originates, sets in motion, or is a primary agency in producing any course of action or result. An originator; creator; origin. A place where something is found or whence it is taken or derived. *Jackling v. State Tax Comm.*, 40 N.M. 241, 58 P.2d 1167, 1171.

*The source of income.* Place where, or circumstances from which, it is produced. *Union Electric Co. v. Coale*, 347 Mo. 175, 146 S.W.2d 631, 635.

**Sources of the law.** The origins from which particular positive laws derive their authority and coercive force. Such are constitutions, treaties, statutes, usages, and customs.

In another sense, the authoritative or reliable works, records, documents, edicts, etc., to which we are to look for an understanding of what constitutes the law. Such, for example, with reference to the Roman law, are the compilations of Justinian and the treatise of Gaius; and such, with reference to the common law, are especially the ancient reports and the works of such writers as Bracton, Littleton, Coke, Fleta, Blackstone, and others.

**Freedom of Information Act.** The Freedom of Information Act (5 U.S.C.A. § 552) provides for making information held by Federal agencies available to the public unless it comes within one of the specific categories of matters exempt from public disclosure. Virtually all agencies of the executive branch of the Federal Government have issued regulations to implement the Freedom of Information Act. These regulations inform the public where certain types of information may be readily obtained, how other information may be obtained on request, and what internal agency appeals are available if a member of the public is refused requested information. This Act is designed to prevent abuse of discretionary power of federal agencies by requiring them to make public certain information about their workings and work product.

**Presumption.** A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. *Van Wart v. Cook*, Okl.App., 557 P.2d 1161, 1163.

The better rule is that once evidence tending to rebut the presumption is introduced, the presumption loses all its force.

**Presumptive evidence.** Prima facie evidence or evidence which is not conclusive and admits of explanation or contradiction; evidence which must be received and treated as true and sufficient until and unless rebutted by other evidence, i.e., evidence which a statute says shall be presumptive of another fact unless rebutted. See **Presumption; Prima facie evidence.**

**Derive.** To receive from a specified source or origin. *Crews v. Commissioner of Internal Revenue*, C. A.10, 89 F.2d 412, 416. To proceed from property severed from capital, however invested or employed and to come in, receive or draw by taxpayer for his separate use, benefit, and disposal. *Staples v. United States*, D.C.Pa., 21 F.Supp. 737, 739.

**Derived.** Received from specified source.

**Derogation** /dɛrəˈɡeɪʃən/. The partial repeal or abrogation of a law, as by a subsequent act which limits its scope or impairs its utility and force. Distinguished from *abrogation*, which means the entire repeal and annulment of a law.

**Derogation from grant.** Provision in an instrument of transfer such as a deed which diminishes or militates against the grant itself.

**Derogatory clause.** In a will, this is a sentence of secret character, inserted by the testator, of which he reserves the knowledge to himself, with a condition that no will he may make thereafter should be valid unless this clause be inserted word for word. This is done as a precaution to guard against later will.

**Fraud.** An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Any kind of artifice employed by one person to deceive another. *Goldstein v. Equitable Life Assur. Soc. of U. S.*, 160 Misc. 364, 289 N.Y.S. 1064, 1067. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. *Johnson v. McDonald*, 170 Okl. 117, 39 P.2d 150. "Bad faith" and "fraud" are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc.

Elements of a cause of action for "fraud" include false representation of a present or past fact made by defendant, action in reliance thereupon by plaintiff, and damage resulting to plaintiff from such misrepresentation. *Citizens Standard Life Ins. Co. v. Gilley*, Tex.Civ.App., 521 S.W.2d 354, 356.

It consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. As distinguished from negligence, it is always positive, intentional. It comprises all acts, omissions, and concealments involving a breach of a legal or equitable duty and resulting in damage to another. And includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture.

**Priest.** A sacerdotal minister of a church. A person in the second order of the ministry, as distinguished from bishops and deacons.

**Priest-penitent privilege.** In evidence, the recognition of the seal of confession which bars testimony as to the contents of a communication from one to his confessor. Nearly all states provide for this privilege by statute.

**Prima impressionis** /práymiy imprèshiyównàs/. A case *primæ impressionis* (of the first impression) is a case of a new kind, to which no established principle of law or precedent directly applies, and which must be decided entirely by reason as distinguished from authority. See **First impression case**.

**Prima preces** /práymiy priýsiyz/. Lat. In the civil law, an imperial prerogative by which the emperor exercised the right of naming to the first prebend that became vacant after his accession, in every church of the empire.

**Prima facie** /práymə féyshiy(iy)/. Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. *State ex rel. Herbert v. Whims*, 68 Ohio App. 39, 38 N.E.2d 596, 599, 22 O.O. 110.

**Prima facie case.** Such as will prevail until contradicted and overcome by other evidence. *Pacific Telephone & Telegraph Co. v. Wallace*, 158 Or. 210, 75 P.2d 942, 947. A case which has proceeded upon sufficient proof to that stage where it will support finding if evidence to contrary is disregarded. In *Hoagland's Estate*, 126 Neb. 377, 253 N.W. 416.

A prima facie case consists of sufficient evidence in the type of case to get plaintiff past a motion for directed verdict in a jury case or motion to dismiss in a nonjury case; it is the evidence necessary to require defendant to proceed with his case. *White v. Abrams*, C.A.Cal., 495 F.2d 724, 729. Courts use concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a conclusion in favor of allegation he asserts; this means plaintiff's evidence is sufficient to allow his case to go to jury, and (2) courts used "prima facie" to mean not only that plaintiff's evidence would reasonably allow conclusion plaintiff seeks, but also that plaintiff's evidence compels such a conclusion if the defendant produces no evidence to rebut it. *Husbands v. Com. of Pa.*, D.C.Pa., 395 F.Supp. 1107, 1139.

**Prima facie evidence.** Evidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence. *State v. Haremza*, 213 Kan. 201, 515 P.2d 1217, 1222.

Prima facie evidence is evidence that, until its effect is overcome by other evidence, will suffice as

proof of fact in issue; "prima facie case" is one that will entitle party to recover if no evidence to contrary is offered by opposite party. *Duncan v. Butterov Inc.*, Tex.Civ.App., 474 S.W.2d 619, 621. Evidence which suffices for the proof of a particular fact uncontradicted and overcome by other evidence. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact in the absence of proof, or until proof can be obtained or produced to overcome the inference.

See also **Presumptive evidence**.

**Prima facie tort.** The infliction of intentional harm resulting in damage, without excuse or justification by an act or series of acts which would otherwise be lawful. *Cartwright v. Golub Corp.*, 51 A.D.2d 40, 381 N.Y.S.2d 901, 902.

**Primage** /práymaj/. In old mercantile law, a small allowance or compensation payable to the master or mariners of a ship or vessel; to the former for the use of his cables and ropes to discharge the goods of the merchant; to the latter for lading and unlading in a port or haven. It is no longer, however, a gratuity to the master, unless especially stipulated; but it belongs to the owners or freighters, and is nothing but an increase of the freight rate.

**Prima pars æquitatis æqualitas** /práymə párz è wətéydas ækwólatàs/. The radical element of equity is equality.

**Primary.** First; principal; chief; leading. First in order of time, or development, or in intention. As **primary Conveyance**; **Election**; **Obligation**; **and Vein**, see those titles.

**Primary activity.** Concerted action such as a strike or picketing directed against the employer with whom has a dispute. Compare, **secondary activity**.

**Primary allegation.** The opening pleading in a suit in the ecclesiastical court. It is also called a "prima plea."

**Primary beneficiary.** In life insurance, the person named in the policy who is to receive the proceeds on the death of the insured if such person is alive. If deceased, the proceeds are payable to a secondary beneficiary also designated as such in the policy.

**Primary boycott.** Action by a union by which it tries to induce people not to use, handle, transport or purchase goods of an employer with which the union has a grievance. See also **Boycott**.

**Primary disposal of the soil.** In acts of congress admitting territories as states, and providing that no law shall be passed interfering with the primary disposal of the soil, this means the disposal of it by the United States government when it parts with its title to private persons or corporations acquiring the right to a patent or deed in accordance with law.

**Primary election.** A preliminary election for the nomination of candidates for office or of delegates to a party convention, designed as a substitute for party conventions. Such elections are classified as closed or open depending on whether or not tests of party

For a complete packet dealing with  
this information send 50<sup>00</sup> to  
VIP, Box 463, Owensville, Ohio  
45160

Senators Dewine and Voinovich  
Attn: Ellen Kinker  
37 W. Broad Street, Suite 970  
Columbus, Ohio 43215

00

Dear Sir:

In my letter to your office, I believe I did not detail my position in point (9) as well as possible. Below is a point by point explanation of gross income and the source(s) it may come from according to the IR Code.

1. The 16<sup>th</sup> Amendment gives the Congress authority to tax from 'source(s)'.
2. The U.S. Supreme Court determined in cases such as U.S. v. Burke, James v. U.S., and many other cases, and reveal that tax laws mean what the words in them say, as the Congress acts purposefully in the use of its language, and the 16<sup>th</sup> Amendment reveals the full measure of the taxing power of the U.S. Congress.
3. 26 U.S.C. Section 7806(b) states that tables of contents, headings, and charts and other descriptive matter do not constitute the law, but the words in the laws are the law.
4. 26 U.S.C. Section 1 imposes the income tax on "taxable income" defined in Section 63.
5. 26 CFR Section 602.101 (1990) lists the form's OMB Control number 1545-0067, which is the 2555, Foreign Earned Income form, as the only form to be filed by U.S. Citizens pursuant to Section 1.1-1 of the Regulations and thus Section 1 of the Internal Revenue Code(IRC).
6. 26 CFR Section 602.101 - (1990) lists the form's OMB Control number 1545-0067 which is the 2555, Foreign Earned Income form, as the primary return to be filed pursuant to the regulations of Section 6012 (the section of law that the IRS claims, requires U.S. Citizens to file an income tax return) at the listing for Section 1.6012-0.
7. 26 CFR Section 602.101 - presently lists the form's OMB number 1545-0067, which is the 2555 Foreign Earned Income form as the first return in the list of returns to be filed pursuant to Section 6012 at Section 1.6012-1, since Section 1.6012-0 and 1.1-1 have both been removed.
8. 26 U.S.C. Section 63 - defined "Taxable income", on which the tax is imposed, in Section 1 and the form to be filed, proved to be the 2555, is primarily dependent upon the definition of the term "Gross income" defined in Section 61 of the IRC.
9. 26 U.S.C. Section 61 -defines "Gross income" as income from whatever "sources(s)", and the items listed alphabetically below Section 61, are "items" of gross income *not* sources. Very important distinction.

10. 26 U.S.C. Section 861 - Located in Subchapter N - TAX BASED ON INCOME FROM SOURCES WITHIN OR WITHOUT THE UNITED STATES, PART I - SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME, lists items of gross income which are to be treated as income from sources within the U.S. This statute does not identify any specific sources within the United States, only items of gross income from the broad-brush item "sources within the United States."

11. No other subchapter can be located that deals with 'TAX BASED ON INCOME FROM SOURCES WITHIN... THE UNITED STATES', and no other PART can be located that deals with 'SOURCE RULES AND OTHER GENERAL RULES RELATING TO'... U.S. Citizens earning Domestic or U.S. source income. Therefore, as the law in point number 14 below asserts, all else is exempt by reason that it is not within the 'fence' of the law described in point number 10 above.

12. 26 CFR Section 1.861-8(f)(1) - the regulation for Section 861 of the IRC (26 U.S.C.), in a part that is supposed to relate to FOREIGN INCOME only, there is a citation of foreigners being taxable on U.S. source income at subsection (iv)

13. 26 CFR Section 1.861-8T(d)(2)(iii) - a regulation for Section 861 of the IRC (26 U.S.C.), in a part that is supposed to relate to FOREIGN INCOME only, there is a citation of foreigners being taxable on U.S. source income at subsection(A).

14. 26 CFR Section 1.861-8T(d)(2)(ii)(A) - a regulation for Section 861 of the IRC (26 U.S.C.) which lists the only U.S. sources taxable for the purpose of the income tax, states that "exempt income" under the law means any income that is ...excluded... for federal income tax purposes. Or, in other words, if it isn't within the 'fence' of the law, then it is 'outside' of the 'fence' and thus, exempt.

15. The term "Excluded"- in Black's Law Dictionary means "denial of entry or admittance" Or, in the case of 14 above, is not to be admitted within the 'fence' containing 'taxable sources'.

16. 26 CFR Section 1.861-8(f)(1)and(vi) - both of these sections of laws could possibly apply to U.S. Citizens, as they have to do with possessions of the U.S. that the Congress has deemed to be neither foreign sources nor U.S. sources in specific instance, so U.S. Citizens are not "exempt" from the income tax per se, but are taxable in relationship to these items.

17. 26 CFR Section 1.861-8T(d)(2)(iii)(D) - plainly displays the fact that some U.S. Citizens are not "exempt" from the income tax per se, but are taxable in relationship to Foreign earned income as defined in Section 911 so income earned under Section 911 is the only source of "gross income" in regards to a U.S. Citizen covering both U.S. and foreign sources when the Citizen claims a foreign tax home.

18. 26 U.S.C. Section 911 - is entitled "Citizens or residents of the United States living abroad", and many will be hard pressed to prove that it is not limited, as its title claims.

Plainly, the Secretary has stated, in the Regulations he has promulgated for the function of the section of law which lists sources within the U.S. from which the income tax can be based, (Section 861), as enacted by the Congress, that the only sources on income which U.S. Citizens earn, which is "gross income" and thus are taxable, are under Section 911.

The Secretary wrote the applicable regulations as he understood the law, as enacted by the Congress, and how he was going to enforce it. The U.S. Congress obviously did not object, as they are now an official Federal Regulation and law, as seen by the Federal Courts.

19. 26 U.S.C. Section 3401(a)(8)(A)- confirms the fact that U.S. Citizens only earn "Gross income" under the income tax law when living abroad, as it only defines remuneration paid to a U.S. Citizen by an employer, as "Wages" and "Gross income", (and subsequently construed from the entries on a W2 form pursuant to Section 6051, and then entered on the 1040 return) only when its payment is included in Section 911. If U.S. Citizens make gross income under any other law, why are they not listed her in Section 911, so they can be withheld from?

20. 26 U.S.C. Section 3401(a)(8)(A)(ii) (B), (C), and (D) -all relate to U.S. Citizens being paid remuneration while working in U.S. possessions or Puerto Rico(which are not considered U.S. sources).

21. 26 U.S.C. Section 3402 - imposes the withholding of the income tax only upon "wages" as defined exclusively within its chapter (24) at Section 3401(a).

22. 26 U.S.C. Section 3401 (a)(8)(A) - reveals the remuneration paid to U.S. Citizens living and working in the U.S., is excepted from the definition of "wages" which are subject to the withholding requirement of Section 3402.

23. 26 U.S.C. Section 3403 - only protects employers from liability for paying the withheld remuneration to the IRS, if the remuneration is first "wages" under 3401(a), which is then required to be withheld from Chapter 24 at Section 3402.

With Section 911 (as referenced in 26 U.S.C. Section 3401 (a)(8)(A) being listed as the statute revealing the only way a U.S. source of income from which U.S. Citizens earn income subject to the income tax, in the regulations promulgated by the Secretary for the purpose of explaining sources of income within the U.S., and income earned in Puerto Rico and U.S. possessions also being listed as taxable sources in the same regulations and in Section 3401 (a)(8)(A),(B),(C)and(D), it should not be too difficult to understand how only some remuneration paid to a U.S. Citizen living abroad, is included in the definition of gross income in Section 911 and is wages to be withheld from under Section 3402.

With the remuneration not being defined as "wages" there is no legal requirement to withhold, as there are no "wages" to be withheld from. Subsequently, the employer is not required to withhold, and therefore can neither be liable for a tax under Section 3402, nor indemnified from any suit for his taking portions of the remuneration not defined as "wages" per Section 3401(a)(8)(A).

Does not points 19 and 22 prove the fact that Section 911 is the only obvious place where U.S. Citizens make "gross income", to be defined as "wages" and withheld from under Section 3402, and thus subject to the income tax? If you have any information that may state otherwise please send it to me immediately.

Sincerely,

# TOP SECRET!

Do you have any idea how many secret files the IRS is maintaining on YOU?

Do you have any idea where all those files are being maintained or where they are located? Also, that many of these are located OVERSEAS!??

Do you realize that any *foreign power* now has almost instant access to these files which consist of hundreds, even thousands, of pages?

Do you realize that the people whose job it is to maintain all these files about you or your business probably couldn't care less if these files are correct or not?

According to a major Congressional Investigation and the Government Accounting Office, many of these files are indeed **FILLED WITH ERRORS!**

The problem is so huge that Congress has provided you a way to check your records, to audit them, and then to have those records corrected if necessary!

Not once have we seen the news media, any professional association, or even the government itself, teach you how to go about accessing these records and getting them corrected. In most cases, getting started involves no more than sending in a simple one-page form to the correct address. In about 3 weeks you will start receiving back your secret files, which until now, have been deeply hidden from you.

To learn how to do this, and much more, order our IRS Level I Seminar package which includes a manual of over 140 pages, 6 audios, and 3 videotapes. This seminar is available for \$125 and will take you through many of the secret files the IRS is keeping on YOU!

Contact: \_\_\_\_\_

VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221

# FOIA?? WHY??

FOIA... The secret key to unlock a vast amount of information.

The Congress and the Supreme Court have given the American people a way to keep tabs on governmental agencies, especially when it pertains to you! Even the government officials wonder why more people do not take advantage of using FOIA!

Here are just a few things you should know concerning FOIA: (by Pastor Richard William Standing)

- The people's right to know was just a journalistic slogan rather than a legal right enforceable in the courts until 1967 when the Freedom of Information Act was enacted. (USC vol. 5 section 552)
- FOIA makes government records "available to any person", and not merely to a party in an interagency action.
- FOIA gives you a legally enforceable right of access to government files and documents which has made a profound effect when a citizen has to deal with a government agency.
- In 1967 the Attorney General issued a memorandum on the Public Information Section of the Administrative Procedure Act which listed these 5 important points: 1. That disclosure be the general rule, not the exception. 2. That all individuals have equal rights of access. 3. That the burden be on the government to justify the withholding of a document, not on the person who requests it. 4. That individuals improperly denied access to documents have a right to seek injunctive relief in the courts. And 5. That there be a change in government policy and attitude.
- If your FOIA request for identifiable records is refused by an agency you are given a right of action in a Federal Court. The court is given jurisdiction to enjoin the agency from withholding records and to order production of agency records withheld from complainant.
- All a complainant must allege in an action under FOIA is that he made a request under FOIA, that they made a request for identifiable records, which the agency turned down. The burden then shifts to the agency to justify its refusal.
- In a study of the FOIA it was found that the prime beneficiary of FOIA was businesses subject to Federal regulation. Private citizens just do not have proper access to this FOIA program.
- Since 1974 agencies must now determine FOIA request within 10 days and decide appeals on such requests within 20 days. If the agency fails to comply with these time limits, the person making the request "shall be deemed to have exhausted his administrative remedies with respect to such request." This means you can then bring a FOIA action in court.
- FOIA provides that Government agencies shall make available to the public a broad spectrum of information, but exempts from its mandate certain specified categories of information. A court has no equitable jurisdiction to deny disclosure other than those laid out in one of these 9 enumerated exemptions, and even then, in camera inspections can be requested.
- FOIA seeks to permit access to official information long shielded unnecessarily from public view and attempts to create a judicially enforceable public right to secure such information from unwilling official hands.
- The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." As stated by the Supreme Court.

Send a #10 SASE to VIP, Box 463, Owensville, Ohio 45160. We will send you a FOIA request template that will enable you to obtain your "Individual Master File" from the IRS which is just one of the dozens of secret documents they keep on everyone! Valuable literature and Seminars also available!

Attorney General Janet Reno  
United States Justice Department  
10<sup>th</sup> and Constitution Ave., NW  
Washington, D.C. 20530

Associate Director (Enforcement)  
Bureau of Alcohol, Tobacco, and Firearms  
650 Massachusetts Ave. NW  
Washington, D.C. 20226

Director of the Foreign Operations District  
Agents for the Federal Alcohol Administration in Puerto Rico  
Internal Revenue Service  
Bureau of the Federal Alcohol Administration in Puerto Rico  
Washington, D.C. 20226

Director Office of Disclosure  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Commissioner of the Internal Revenue Service  
Ben Franklin Station, PO Box 929  
Washington, D. C. 20225

Computer Records  
Detroit Computing Center  
1300 John C. Lodge Dr.  
Detroit, MI 48226

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Agent for the Federal Alcohol Administration in Puerto Rico  
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Washington, D.C. 20226

Director, Bureau of Alcohol Tobacco  
And Firearms  
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Washington, D.C. 20226

Office of Appeals  
Internal Revenue Service  
(YOUR DISTRICT)

Chief, Disclosure Branch  
Room 8290  
650 Massachusetts Ave., NW  
Washington, D.C. 20226

Congressman ( Your Congressman )  
U.S. House of Representatives  
238 Cannon Office Building  
Washington, D.C. 20515

Chief, Administrative Program Division  
Bureau of Alcohol, Tobacco,  
and Firearms  
650 Massachusetts Ave., NW  
Washington, D.C. 20226

Senator (Your Senator)  
140 Russell Building  
Washington, D.C. 20510

Senator (Your Senator)  
B34 Dirksen Senate Office Building  
Washington, D.C. 20510

Privacy Act Request  
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Firearms  
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Washington, D.C. 20226

Assistant Commissioner (International)  
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Fourth Floor  
Washington, D.C. 20024

Internal Revenue Service  
1325 K. Street NW  
Washington, D.C. 20225

Freedom of Information and Privacy  
Act Unit, Tax Division  
U.S. Department of Justice  
ATTN: Ms. Ruby McCoy  
PO Box 227, Ben Franklin Sta.  
Washington D.C. 20044

ATTN: Disclosure Officer Room 810  
Internal Revenue Service Foreign Operations District FOD:5  
PO Box 384  
Washington, D.C. 20044

## “National Prohibition Act”

The government and the Internal Revenue Service will refuse to provide a specific answer to the question when asked, “What parts of the Internal Revenue code consist of the National Prohibition Act. However, we have found sections of the code which are referenced in Title 26 USC which do fall within the sections of the code which were formerly Title III of the National Prohibition Act.

The National Prohibition Act was repealed in 1933 and extended to the Virgin Islands and Puerto Rico in 1935, then incorporated into Title 26 in the 1939 tax code as evidenced by Title 48 USC Section 1402.

We have received new evidence supporting the facts cited in the above paragraph in a letter from the DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, WASHINGTON, D.C. 20224. The letter was signed by Thomas Marusin, Director of Information, Badge No. 50-04672. The said letter states, in part: “We have been advised by the Bureau of Alcohol, Tobacco, and Firearms (BATF) that all sections of the Internal Revenue Code (IRC) dealing with issues formerly in the NPA (National Prohibition ACT) are the responsibility of the BATF, these issues are generally applicable only to business, not individual taxpayers.” (Emphasis in the original).

**Do you know which sections of the IRC are only to be applied by the BATF and not the IRS?**

To find out more valuable information regarding the IRS, you may want to obtain IRS Seminars, Level I, II, and III.

Contact:

VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Services  
Room 1058-MT  
Department of the Treasury  
Washington, DC 20220

FROM:

Your Name  
Your Mailing Address  
City, State ZIP

Dear Sir:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 31 CFR 1.5.
2. If some of this request is exempt from release, please send me those portions reasonably segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that this request is for commercial publication. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: {Insert the applicable years}.
5. **BACKGROUND:** The National Prohibition Act, repealed in 1933, was extended to the Virgin Islands and Puerto Rico in 1935, then classified to Title 26 in 1939, as evidenced by 48 USC 1402, a copy of which is attached hereto and incorporated herein by reference as EXHIBIT A.
6. Please send me a copy of the documents disclosing the identity of the agency administering and/or enforcing Title III of the National Prohibition Act.

Dated:

Respectfully Submitted,

---

Your Name, Requester

1976, P. L. 94-373, Title I, § 100, 90 Stat. 1052; July 26, 1977, P.L. 95-74, Title I, § 100, 91 Stat. 295; Oct. 17, 1978, P. L. 95-465, Title I, § 100, 92 Stat. 1289; Nov. 27, 1979, P. L. 96-126, Title I, § 100, 93 Stat. 365.

§ 1402. Extension of industrial alcohol and internal revenue laws to Virgin Islands

Title III of the National Prohibition Act, as amended and all provisions of the internal revenue laws relating to the enforcement thereof, are hereby extended to and made applicable to [Puerto Rico and] the Virgin Islands, from and after August 27, 1935. The respective Insular Governments shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in [Puerto Rico and] the Virgin Islands of the said Title III and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection [this section].

(June 26, 1936, ch 830, Title III, § 329(c), 49 Stat. 1957.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"Title III of the National Prohibition Act", referred to in this section, is Act Oct. 28, 1919, ch 85, Title III, 41 Stat. 319, which was generally classified to 27 USC §§ 71 et seq. prior to supersedure by the Internal Revenue Code of 1939, and subsequently by the Internal Revenue Code of 1954. For sections contained in the 1939 Internal Revenue Code, see notes at 27 USCS §§ 71 et seq.

"The internal revenue laws", referred to in this section, are located generally at 26 USCS §§ 1 et seq.

Explanatory notes:

Brackets were placed around the references to Puerto Rico to conform the section to the subject matter of this chapter. The content of this section as it relates to Puerto Rico is classified to 48 USCS § 734a.

CROSS REFERENCES

Industrial alcohol plants, application of internal revenue laws to Virgin Islands, 26 USCS § 5314.

§ 1403. Issuance of bonds or other obligations by government or municipalities; use of proceeds; limit on public indebtedness; terms, execution, interest rate, and sale price; taxes

To construct, improve, extend, better, repair, reconstruct, acquire, and operate any and all types of public works which shall include, but not be

EXHIBIT	Page	Of
A	1	1



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

Person to Contact:  
Carroll Field  
Telephone Number:  
(202) 622-5151  
Refer Reply to:  
OP:EX:GLD:F/1999179  
Date: MAR 25 1999

Dear Mr. and Ms.

This letter is in response to your September 18, 1998, Freedom of Information Act requests which were sent to Disclosure Services, Department of the Treasury. Your request is identified as Certified Mail No. Z 148 847 381. You requested a "copy of the documents disclosing the identity of the agency administering and/or enforcing Title III of the National Prohibition Act.". I apologize for the delay in responding to your request.

After checking with the Bureau of Alcohol, Tobacco and Firearms (ATF), we can provide you with the following information. Title III of the National Prohibition Act (NPA) dealt with such issues as the definitions of and administrative rules for the handling of industrial alcohol, tax-free alcohol, warehousing provisions for such alcohol, etc.

All extant rules and regulations in this area are now codified in the Internal Revenue Code (e.g., see Chapter 5100 and following) and are the responsibilities of ATF. This includes such issues as the importation of distilled spirits, the detention of containers, etc. These issues are normally only applicable to businesses, not individual taxpayers.

The Freedom of Information Act was enacted to facilitate the public's access to reasonably described agency records. To meet this goal, agencies are required to perform reasonable searches to locate responsive records. However, search efforts are sometimes confused as research, which the FOIA specifically does not require agencies to perform. Regulations, statutes, the Internal Revenue Code and the United States Code, the Federal Register, etc., are all part of the public domain and can be reviewed and researched by you at most public or law libraries.

# PROCEDURE AND ADMINISTRATION

## Information and Returns

### RETURNS AND RECORDS

#### Records, Statements and Special Returns

[Reg. § 1.6001-1]

↙  
§ 1.6001-1. **Records.**—(a) *In general.* Except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

(b) *Farmers and wage-earners.* Individuals deriving gross income from the business of farming, and individuals whose gross income includes salaries, wages, or similar compensation for personal services rendered, are required with respect to such income to keep such records as will enable the district director to determine the correct amount of income subject to the tax. It is not necessary, however, that with respect to such income individuals keep the books of account or records required by paragraph (a) of this section. For rules with respect to the records to be kept in substantiation of traveling and other business expenses of employees, see § 1.162-17.

(c) *Exempt organizations.* In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and § § 1.6033-1 through -3.

(d) *Notice by district director requiring returns, statements, or the keeping of records.* The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to

determine whether or not such person is liable for tax under subtitle A of the Code, including qualified State individual income taxes, which are treated pursuant to section 6361(a) as if they were imposed by chapter 1 of subtitle A.

(e) *Retention of records.* The books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law [Reg. § 1.6001-1.]

□ [T.D. 6364, 2-13-59. Amended by T.D. 7122, 6-7-71, T.D. 7577, 12-19-78 and T.D. 8308, 8-30-90.]

[Reg. § 20.6001-1]

§ 20.6001-1. **Persons required to keep records and render statements.**—(a) It is the duty of the executor to keep such complete and detailed records of the affairs of the estate for which he acts as will enable the district director to determine accurately the amount of the estate tax liability. All documents and vouchers used in preparing the estate tax return (§ 20.6018-1) shall be retained by the executor so as to be available for inspection whenever required.

(b) In addition to filing an estate tax return (see § 20.6018-1) and, if applicable, a preliminary notice (see § 20.6036-1), the executor shall furnish such supplemental data as may be necessary to establish the correct estate tax. It is therefore the duty of the executor (1) to furnish, upon requests, copies of any documents in his possession (or on file in any court having jurisdiction over the estate) relating to the estate, appraisal lists of any items included in the gross estate, copies of balance sheets or other financial statements obtainable by him relating to the value of stock, and any other information obtainable by him that may be found necessary in the determination of the tax, and (2) to render any written statement, containing a declaration that it is made under penalties of perjury, of facts within his knowledge which the district director may require for the purpose of determining whether a tax liability exists and, if so, the extent thereof. Failure to comply with such a request will render the executor liable to penalties (see section 7269), and proceedings may be

**Reg. § 20.6001-1(b)**

FREEDOM OF INFORMATION ACT REQUEST

TO:

FROM:

Department of the Treasury  
Internal Revenue Service  
FOIA Disclosure Officer

Account#

Dear Ms. Reno,

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).
2. If some of this is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: \_\_\_\_\_
5. BACKGROUND: See Exhibit A, Treasury Order No. 24 (Rev 1).
6. Please send a copy of the notice sent by the District Director ordering me to keep books and records, what types of books and records, how the records are to be kept, and for what specific type of tax, which pertains to the above mentioned account number and individual.

DATED:

Respectfully,

, Requester

Notary:

State of)

\_\_\_\_\_ ) ss  
County )

On this \_\_\_\_ day of \_\_\_\_\_, 2000, before me, \_\_\_\_\_ a Notary  
for the State of \_\_\_\_\_,  
did appear and acknowledged the making and signing of this document.

\_\_\_\_\_  
Notary Date

My commission expires on \_\_\_\_\_

Notices copies of this letter have been sent to the following agencies and representatives:

Director, Office of Disclosure  
Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

Assistant Commissioner (International)  
950 L'Enfant Plaza SW  
Fourth Floor  
Washington DC 20024

Privacy Act Request  
Bureau of Alcohol, Tobacco, and Firearms  
Room 8290  
650 Massachusetts Ave, NW  
Washington DC 20226

AAT: Disclosure Officer Room 810  
Internal Revenue Service Foreign Operations District FOD: 5  
PO Box 384  
Washington DC 20044

Freedom of Information and Privacy Act Unit, Tax Division  
US Department of Justice  
ATTN: Ms Ruby McCoy  
PO Box 227, Ben Franklin Sta.  
Washington DC 20044

**Order No. 24 (Rev. 1)**

**Effective date: 5-12-86**

**Authority to Require Records to  
be Kept**

**The Assistant Commissioner (International and District Directors of Internal Revenue are hereby authorized to require any person, by notice served upon him, to keep such records as shall show whether or not such person is liable for tax under the Internal Revenue Code of 1954.**

**This Order supersedes Delegation Order No. 24, issued February 29, 1956.**

**/s/ James I. Owens  
Deputy Commissioner**

---

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

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

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



UNITED STATES of America,  
Plaintiff-Appellee,

v.

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

No. 88-1924.

United States Court of Appeals,  
Fifth Circuit.

Nov. 29, 1989.

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

Reversed and remanded.

1. Witnesses ⇨337(31)

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

2. Conspiracy ⇨44½

Internal Revenue ⇨5291

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

3. Conspiracy ⇨44½

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

4. Criminal Law ⇨778(5)

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

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

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

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

Appeals from the United States District Court for the Northern District of Texas.

charge to the jury was erroneous. We find error as to both issues.

Before GEE, JONES and SMITH,  
Circuit Judges.

#### Discussion

GEE, Circuit Judge:

#### Facts

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

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

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

#### 1. Discoverability of the IMF

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

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

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

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

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

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

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

In addition, Buford's attorney offered, through Boatright, AMDISA<sup>2</sup> reports on Stephen Buford for the years 1980 through 1984. He then elicited testimony from her that the AMDISA contained information that would not have been there unless a tax return had been filed. Her testimony made clear that the Certificates of Assessments were hand prepared and that the entry "No record of return filed" was hand written onto the certificates (by someone other than Boatright), which had been prepared specifically for the trial. Her testimony continued that the AMDISA reports came directly from the computer and contained a Dif Score.<sup>3</sup> She also testified as to the effect of a freeze code.<sup>4</sup> In the meantime, repeated requests by Buford's attorney for an in camera review of the IMF apparently fell on deaf ears.

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

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

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

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

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

## 2. Jury Instruction

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

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

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

U.S. v. BUFORD

1409

Cite as 889 F.2d 1406 (5th Cir. 1989)

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

The court's charge was erroneous.

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

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

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

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

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

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

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

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

*Id.* at 194.

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

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

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

REVERSED and REMANDED.



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

11/10/89  
Object Object Object

40.14[21] *Admissibility of IRS Computer Records*

Computer data evidence is often introduced in tax cases to prove that the defendant did not file returns as required. Protestors often challenge such evidence and courts routinely reject such challenges. These records may be admitted under Federal Rule of Evidence 803(10) as certificates of lack of official records. See *United States v. Bowers*, 920 F.2d 220, 223 (4th Cir. 1990); *United States v. Spine*, 945 F.2d 143, 149 (6th Cir. 1991); *United States v. Ryan*, 969 F.2d 238, 240 (7th Cir. 1992). Such records may be self-authenticating under Rule 902 if under seal or they may be authenticated by an IRS employee. No showing of the accuracy of the computer system needs to be made to introduce the documents. *Ryan*, 969 F.2d at 240.

The introduction of the actual transcript of account through a witness can open the witness to cross-examination by the defense about every code and piece of information contained in the transcript. In order to avoid this problem, it may be wiser to simply offer the testimony of the IRS employee that a records search was conducted and it was revealed that no return was filed.

Some courts have admitted the records under Rule 803(8) notwithstanding the fact that since it is being offered in a criminal trial and is a matter "observed by law enforcement personnel," Rule 803(8)(C) would seem to forbid its introduction under that rule. These courts have distinguished between law enforcement reports prepared in routine, non-adversarial settings and those resulting from the more subjective endeavor or on-the-scene type investigations of a crime. See *United States v. Wiley*, 979 F.2d 365, 369 (5th Cir. 1992); *United States v. Wilmer*, 799 F.2d 495, 500-01 (9th Cir.), cert. denied, 481 U.S. 1004 (1987). In *United States v. Hayes*, 861 F.2d 1225, 1230 (10th Cir. 1988), the Tenth Circuit agreed with the Fifth and Ninth Circuits that Rule 803(8)(C) does not compel the exclusion of documents which could properly be admitted under Rule 803(6) if the authoring officer or investigator testifies at trial, thus protecting the defendant's confrontation rights, which is the rationale underlying Rule 803(8).

1997 (6209) 50 00  
 1994 (6209) 45 00  
 1987 (6209) 40 00  
 1982 (6209) 20 00



Document 6209 is provided as a handy reference guide only. More detailed and current information can be found in the appropriate Internal Revenue Manuals or ADP Handbooks. Limited resources and book format make on-going maintenance of this document prohibitive.

Providing Document 6209 in bound book format is the most economical method for accommodating our needs. The initial cost of changing from bound book to loose-leaf would be prohibitive. Additionally, the costs incurred in subsequent years would also be greater than in bound format.

Document 6209 contains material of a sensitive nature and therefore requires maximum safeguards. In addition, security dictates that copies of the Document 6209 carried by Revenue Officers and others should not come apart easily as potential loss would compromise "Official Use Only" material.

The 1994 version of Document 6209 was updated and edited by the contributions of the following people:

- |                  |                                |
|------------------|--------------------------------|
| Pat Baker        | • Ogden Service Center         |
| David Bonanzinga | • Brookhaven Service Center    |
| Jay Cardillo     | • Fresno Service Center        |
| Peggy Gulnn      | • Dallas District Office       |
| Paula Holstetter | • St. Paul District Office     |
| Kelly Koster     | • Detroit District Office      |
| Maureen Murphy   | • Philadelphia Service Center  |
| Emma Reed        | • Kansas City Service Center   |
| Almira Rogers    | • Baltimore District Office    |
| Diane Sanzone    | • Brookhaven Service Center    |
| Judith Sellers   | • Fresno Service Center        |
| Ana Sweet        | • Indianapolis District Office |
| Louise Thortle   | • Jacksonville District Office |

VIP  
 Box 463  
 Owensville, Ohio  
 45160

**CHAPTER 3**  
**ORDERING SECURITY ITEMS**  
*SERVICE CENTER CUSTOMERS SHOULD CONTACT THEIR FORMS  
COORDINATOR IF SECURITY ITEMS ARE NEEDED.*

**Ordering Security Items**

Some IRS published products are security items. These items cannot be obtained by the public through the Freedom of Information Act, and are not listed in Document 7130.

Only specific IRS personnel are authorized to order security items. Each fall, Directors and Host Site Chiefs are requested to update their listing for the upcoming fiscal year. If further information is needed, or if there are changes in authorized personnel, order point numbers, address, or phone numbers during the year, customers can contact their servicing Regional or National Office Coordinator listed on page A-3.

To order security items:

- Authorized personnel can either contact their servicing ADC by phone, or fax Form 7130, Fax Order - Stock Requisition for Multimedia Published Products.
- ADCs ensure only authorized personnel order the item using the correct OPN.
- If authorized personnel order the item, it will be shipped. If an unauthorized OPN is used or if the customer is not authorized, the order will be rejected. The ADC will notify the requestor by phone that their order has been rejected.

**Storing Security Items**

Security items, including Official Use Only (OUO) materials, must be locked in cabinets and kept away from outside access (e.g., cleaning crews, maintenance personnel, taxpayers, etc.).

**Document 6209, ADP and IDRS Handbook**

As of June 11, 1998, IRS employees DO NOT need security authorization to order the ADP and IDRS Information Handbook. The status of this document has been changed to "Official Use Only." This document must be stored according to the guidance listed above, Storing Security Items.

FREEDOM OF INFORMATION ACT REQUEST

Disclosure Officer  
Internal Revenue Service  
PO Box 145500, Stop 68  
Cincinnati, Ohio 45250-5500

Account # \_\_\_\_\_

Dear Officer:

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

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

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

This request pertains to the years: \_\_\_\_\_

1. Please send Requester a copy of all documents maintained in the system of records identified as Individual Master File (IMF) *specific and not literal*; Data Service, Treasury/IRS 24.030, which pertain to this Requester.

Dated: \_\_\_\_\_

Respectfully,

\_\_\_\_\_  
Requester

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

\_\_\_\_\_  
Requester

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND AFFIRMED:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

Send 20<sup>th</sup> to VIP for your complete Man

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

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

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

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

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

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

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

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

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

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

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

#### 30(55)4.2 (1-1-96)

##### Types of Transcripts

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

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

**30(55)4.3** (1-1-96)

**Computer Paragraph Notices**

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

send for one at a time

## ADDITIONAL F.O.I.A. REQUESTS

1. Please send me a copy of the \_\_\_\_\_ District Office delegation of authority for IRS employees to execute returns under IRC sections 6020(a) and 6020(b) and 7602.

2. Please send me a copy of the record of assessment, Accounting Assessment Journal, the Assessment list, form 23C, supporting documents and the ledger entry required to make assessment which pertains to the above referenced SS# and person. ( pertaining to me.)

3. Please send a copy of the Notice of Assessment and Demand for Payment. If you assert that a notice and demand were sent; send a copy of the notice list, a copy of the error list, a copy of the list of notices pulled from the mailing on the date you allege the notice was sent to me, a copy of the mail log reflecting my name and address, and any other documentation which would establish that the notice of assessment and demand for payment were sent to the above referenced SS# and person.

4. Please send a copy of the complete ACTRA and MFTRA files maintained in the Integrated Data Retrieval System (IDRS) system of records known as Data Services - Treasury/IRS 24.030 which pertain to the above referenced SS# and person.

5. Please send a copy of the "notice of assessment and demand for payment" issued to the above referenced SS# and person. This record would be contained in the system of records designated to retain such correspondence.

6. Please provide me with a copy of all the documents maintained in the system of records known as Examination Administration file, Treasury/IRS 42.001 which pertains to the above referenced SS# and person.

7. Please send me a copy of all documents maintained in the system of records identified as Classification and Examination Selection files, Treasury/IRS 42.016 which pertain to the above referenced SS# and person.

8. Please send me a copy of the record of assessment, Accounting Assessment Journal, the Assessment list, form 23C, supporting documents and the ledger entry required for making the assessment, for the following assessment dates; \_\_\_\_\_, \_\_\_\_\_, which pertain to the above referenced SS# and person.

9. Please send me a copy of the record of assessment, Accounting Assessment Journal, the Assessment list, form 23C, supporting documents and the ledger entry required to make the assessment, which pertain to me.

10. Please provide me a copy of the information available for the above referenced SS# and person in the summary record of assessment RACS 006.

11. Please provide me a copy of the information available for the above referenced SS# and person in the system of records known as Subsidiary Accounting files, D:R-Treasury/IRS 22.054.

12. Please send me a copy of the Collection Case file found in the System of Records known as Treasury/IRS 22.012 which pertain to me.

13. Please send me a copy of the Unit Ledger Cards for the years \_\_, \_\_, \_\_ found in the System of Records known as Treasury/IRS 22.060 which pertain to the above referenced SS# and person.

14. Please send me a copy of the front and back of the document identified by Document Locator Number (DLN) \_\_\_\_\_ (14 digit number) for the year \_\_ which pertain to the above referenced SS# and person.

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

16. Please send me a copy of the Non Master file and Comments Field maintained in a system of records known as Integrated Data Retrieval System/IRS 34.018 which pertain to the above referenced SS# and person.

17. Please send me a copy of all documents maintained in a system of records known as Wage and Information Returns Processing (IRP) file: Treasury/IRS 22.061 which pertain to the above referenced SS# and person.

18. Please send me a copy of all forms 668 parts 1-6, 668(C) parts 1-6, 668(Y) parts 1-6, 668(2) parts 1-6, 2362, 2859, 3552, 795, 2749, 3915, 2209, 1334, 4907, 4844, and a copy of Letter 1153 (DO) which were prepared and pertain to liens and levies relating to the above referenced SS# and person.

19. Please send me a copy of all documents maintained in a system of records known as Lien files ( Open and Closed) OP : C-Treasury/IRS 26.009 which pertain to the above referenced SS# and person.

20. Please provide me a copy of information available for the above referenced SS# and person in a system of records known as Subsidiary Accounting files, D:R-Treasury/IRS 22.054 on summary record of assessment RACS 006.

21. Please send me a copy of all documents maintained in a system of records known as Return Compliance Program (RCP) 26.016 which reference the SS# and

person above.

22. Please send a copy of all documents maintained in a system of records known as Taxpayer Delinquent Accounts (TDA), including but not limited to: Adjustments and Payment Tracers files, Collateral files, Seized Property Records, Tax Collection Waivers - forms 900 - files, Treasury/IRS 26.019 which pertain to the above referenced SS# and person.

23. Please send me a copy of all the documents maintained in a system of records known as Taxpayer Delinquency Investigation (TDI) files: Treasury/IRS 26.020 which pertain to the above referenced SS# and person.

24. Please send me a copy of all documents maintained in a system of records known as Treasury/IRS 26.021 Transferee files which pertain to the above referenced SS# and person.

25. Please provide me with a copy of the complete and annotated file of all delegation of authority orders containing the delegation made to your office and by your office as required to be maintained by IRM 243.(11) MT 1230-21.

26. Please send me a copy of information available in the system of records known as Disclosure Records : Disclosure-Treasury/IRS 48.001, indicating any disclosure to the Your state Department of Revenue for the above referenced years and person. Please provide me a copy of the information disclosed to the Your state Department of Revenue. If said information was disclosed on computer tape, please print said information on hard copy. Please provide me with the request for Disclosure which was made by the director of the Your state Department of Revenue. Provide me with an accounting disclosure.

27. Please send me a copy of information available in the system of records known as Disclosure Investigation files, Inspection-Treasury/IRS 60.004, indicating any disclosure to the Your state Department of Revenue for the above referenced years and individual. Please provide me a copy of the information disclosed to the Your state Department of Revenue. If said information was disclosed on computer tape, please print said information on hard copy. Please provide me with the request for Disclosure which was made by the director of the Your state Department of Revenue. Provide me with an accounting disclosure.

This letter must be filed as a permanent part of my IRS/TDA/ARMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

INITIAL \_\_\_\_\_

## F.O.I.A.

Send to the IRS and also to the Governor of your state and the Treasurer and the Secretary of State

1. Please send me a copy of the Notice of Election by the Governor to the Secretary of the Treasury, electing to allow the IRS to enter into a "State Agreement", pursuant to 26 CFR 301.6363-1 to collect "state qualified taxes" in your state .

2. Please send me a copy of the notice of election by the Governor to the Secretary of Treasury, electing to allow the Internal Revenue Service to enter into a "state agreement", pursuant to 26 CFR 301.6363-1, binding your state and its successive Governors, allowing the IRS to collect "state qualified taxes" in your state.

3. Please send me a copy of the approval by the state Legislature or the authorized constitutional amendment affirmatively expressing approval for the state to enter into such an agreement.

4. Please send me a copy of the opinion of the Attorney General or judgment by the highest court to the effect that the state's incorporation of the federal income tax laws and regulations, as amended from time to time, by agreement with the IRS, would not violate the Constitution of your state , and allowing for federal prosecution and trial of individuals who are alleged to have committed crimes with regards to the "state qualified tax".

5. Please identify the state individual who is the agreement liaison with the federal government.

6. Please identify the individual state official to receive transferred funds under said agreement.

7. Please send me a copy of any document revealing "other obligations" under said agreement.

*Penalties  
& interest  
only BMF!*

(f) A posted TC 150 return screen which displays return data that is transcribed along with computer generated fields.

(g) A status history screen which includes extension to file data.

(h) A help screen which displays information to assist in using IMFOL/BMFOL.

(5) RTVUE accesses the Return Transaction File (RTF). It contains all edited, transcribed, and error corrected data from data entry lines of returns and related forms and schedules filed in the current processing year (including returns for prior tax years). At a later date, this file will contain information for the current year and two prior year returns. This command code requires a definer to access a particular screen and has an index type screen.

(6) For further explanation of the screen displays and applicable definer codes, refer to IRM 3(25)(77)0, IDRS Terminals Inquiries. Exhibit (20)100-1

### Penalty Policy Statement

#### PENALTY POLICY STATEMENT

*X*  
*↓*

Penalties constitute one important tool of the Internal Revenue Service in pursuing its mission of collecting the proper amount of tax revenue at the least cost. Penalties support the Service's mission only if penalties enhance voluntary compliance. Even though other results, such as raising of revenue, punishment, or reimbursement of the costs of enforcement, may also arise when penalties are asserted, the Service will design, administer, and evaluate penalty programs solely on the basis of whether they do the best possible job of encouraging compliant conduct.

In the interest of an effective tax system, the Service uses penalties to encourage voluntary compliance by: (1) helping taxpayers understand that compliant conduct is appropriate and that non-compliant conduct is not; (2) deterring noncompliance by imposing costs on it; and (3) establishing the fairness of the tax system by justly penalizing the non-compliant taxpayer. To this end, the IRS administers a penalty system that is designed to:

- ensure consistency;
- ensure accuracy of results in light of the facts and the law;
- provide methods for the taxpayer to have his or her interests heard and considered;
- require impartiality and a commitment to achieve the correct decision;
- allow for prompt reversal of initial determinations when sufficient information has been presented to indicate that the penalty is not appropriate;
- ensure that penalties are used for their proper purpose and not as bargaining points in the development or processing of cases.

The Service maintains an ongoing effort to develop, monitor, and revise programs designed to assist taxpayers in complying with legal requirements and, thus, avoid penalties.

To ensure consistency, the Service prescribes and uses a single set of guidelines in a Penalty Handbook which will be followed by all operational and processing functions. Prior to implementation, changes to the Penalty Handbook must be reviewed for consistency

# Are you being squeezed by the IRS?

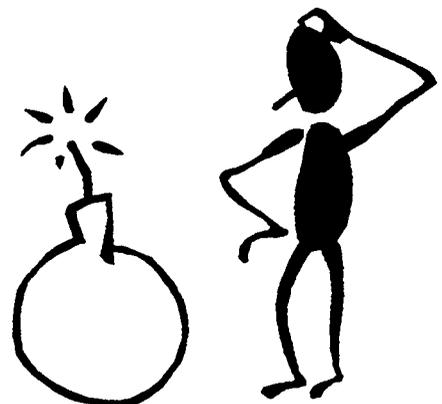
Do you have the IRS trying to extract books or records, or, worse, money from you?  
You should have the following:

1. A copy of the written instrument bearing the signature of the Attorney General which authorized either a civil or criminal investigation against you pursuant to Title 26 U.S.C. Section 7401.
2. A copy of the instrument bearing your signature which identifies the privilege with respect to certain activities which involves them with specific Alcohol, Tobacco and Firearms. (See Title 26 U.S.C. Section 7401, which has its implementing authority under 27 CFR Section 70.191, Civil action by the United States, and 27 CFR Section 70.42(9), Criminal penalties for willful failure to make returns).
3. A copy of the foundation instrument, signed by the agent of the Internal Revenue Service, which was used as the sworn affidavit of probable cause to identify you as a citizen of the United States subject to the jurisdiction of the United States Corporate Government.
4. A copy of the Notice of Assessment Form 23C which is specific to you and no other and which indicates the alleged liability.  
And,
5. A copy of the instrument under Title 26 U.S.C. Section 6331 which shows that you are the officer, employee, or elected official whose wages and/or salary could be levied without a court order and a copy of the authority of the agent who allegedly received such authority without a court order and signed such Notice of Levy.

If you do not have this information in dealing with the IRS, you are waiving many of your rights and waiting for the bomb to explode!

To learn how to obtain this information, send for IRS Seminar Level I.

Contact: VIP, Box 463, Owensville, Ohio 45160  
(513) 641-2221



FREEDOM OF INFORMATION ACT REQUEST

TO:

FROM:

Attorney General Janet Reno  
United States Justice Department  
10th and Constitution Avenue, NW  
Washington, DC 20224

Account#

Dear Ms. Reno,

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).
2. If some of this is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to the years: \_\_\_\_\_
- 5.
5. BACKGROUND: Title 26 USC Section 7401 reveals that "No civil Action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced." A copy of 26 USC Section 7401 is attached hereto and incorporated herein by reference as EXHIBIT A.
6. Please send a copy of the instrument bearing My signature which identifies the privilege with respect to certain activities which involves them with specific Alcohol, Tobacco And Firearms, pursuant to Title 26 USC Section 7401, which has its implementing authority under 27 CFR Section 70.191, Civil action by the United States, and 27 CFR Section 70.42(9), Criminal penalties for willful failure to make returns.

DATED:

Respectfully,

\_\_\_\_\_  
, Requester

Notary: \_\_\_\_\_  
State of) \_\_\_\_\_ ) ss  
\_\_\_\_\_ County )

On this \_\_\_\_ day of \_\_\_\_\_, 1998, before me, \_\_\_\_\_ a Notar  
for the State of \_\_\_\_\_,  
\_\_\_\_\_ did appear and acknowledged the making and signing of this document.

\_\_\_\_\_  
Notary Date

My commission expires on \_\_\_\_\_

Notices copies of this letter have been sent to the following agencies and representatives:

Director, Office of Disclosure  
Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

Assistant Commissioner (International)  
950 L'Enfant Plaza SW  
Fourth Floor  
Washington DC 20024

Privacy Act Request  
Bureau of Alcohol, Tobacco, and Firearms  
Room 8290  
650 Massachusetts Ave. NW  
Washington DC 20226

AAT: Disclosure Officer Room 810  
Internal Revenue Service Foreign Operations District FOD: 5  
PO Box 384  
Washington DC 20044

Freedom of Information and Privacy Act Unit, Tax Division  
US Department of Justice  
ATTN: Ms Ruby McCoy  
PO Box 227, Ben Franklin Sta.  
Washington DC 20044

[Sec. 7343]

**SEC. 7343. DEFINITION OF TERM "PERSON".**

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

[Sec. 7344]

**SEC. 7344. EXTENDED APPLICATION OF PENALTIES RELATING TO OFFICERS OF THE TREASURY DEPARTMENT.**

All provisions of law imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury, or under any agency or office thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any internal revenue law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or employees in connection with such law, or are persons having the custody or disposition of any public money.

## CHAPTER 76—JUDICIAL PROCEEDINGS

- SUBCHAPTER A. Civil actions by the United States.
- SUBCHAPTER B. Proceedings by taxpayers and third parties.
- SUBCHAPTER C. The Tax Court.
- SUBCHAPTER D. Court review of Tax Court decisions.

### Subchapter A—Civil Actions by the United States

- Sec. 7401. Authorization.
- Sec. 7402. Jurisdiction of district courts.
- Sec. 7403. Action to enforce lien or to subject property to payment of tax.
- Sec. 7404. Authority to bring civil action for estate taxes.
- Sec. 7405. Action for recovery of erroneous refunds.
- Sec. 7406. Disposition of judgments and moneys recovered.
- Sec. 7407. Action to enjoin income tax preparers.
- Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.
- Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
- Sec. 7410. Cross references.

[Sec. 7401]

**SEC. 7401. AUTHORIZATION.**

No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

**Amendments**

P. L. 94-455, § 1906(b)(13)(A):

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective 2-1-77.

[Sec. 7402]

**SEC. 7402. JURISDICTION OF DISTRICT COURTS.**

*EXHIBIT A*

[Sec. 7402(a)]

(a) **TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS.**—The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and

FREEDOM OF INFORMATION ACT REQUEST

TO:

FROM:

Attorney General Janet Reno  
United States Justice Department  
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6. Please send a copy of the written instrument bearing the signature of the Attorney General which authorized either a civil or criminal investigation against Me pursuant to Title 26 USC Section 7401.

DATED:

Respectfully,

\_\_\_\_\_  
, Requester

Notary \_\_\_\_\_  
State of) \_\_\_\_\_ ) ss  
\_\_\_\_\_ County )

On this \_\_\_\_ day of \_\_\_\_\_, 1998, before me, \_\_\_\_\_ a Notary  
for the State of, \_\_\_\_\_

did appear and acknowledged the making and signing of this document.

\_\_\_\_\_  
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AAT: Disclosure Officer Room 810  
Internal Revenue Service Foreign Operations District FOD: 5  
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Freedom of Information and Privacy Act Unit, Tax Division  
US Department of Justice  
ATTN: Ms Ruby McCoy  
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[Sec. 7343]

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**CHAPTER 76—JUDICIAL PROCEEDINGS**

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- Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
- Sec. 7410. Cross references.

[Sec. 7401]

**SEC. 7401. AUTHORIZATION.**

No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

**Amendments**

**P. L. 94-455, § 1906(b)(13)(A):**

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective 2-1-77.

[Sec. 7402]

**SEC. 7402. JURISDICTION OF DISTRICT COURTS.**

EXHIBIT A

[Sec. 7402(a)]

(a) **TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS.**—The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and



U.S. Department of Justice

Tax Division

CERTIFIED  
No. Z 189 959 8

Washington, D.C. 20530

LCA:JRM:RELucas:smm  
5-49-2485  
9522944

WJ. FILE COPY *ra*

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John J. Kelly, Esquire  
United States Attorney  
District of New Mexico  
625 Silver, S.W., 4th Floor  
Albuquerque, New Mexico 87102

MAY 25 1995

Re:

Dear Mr. Kelly:

Reference is made to a letter dated March 27, 1995, from Supervisor-in-Charge Marshall H. Mullins, Internal Security Division, Dallas, Texas, recommending prosecution of the above-styled matter.

It has been determined that prosecution of Jesse Lee Van, Sr., pursuant to 26 U.S.C. Section 7212(a) is warranted, and you are requested to initiate such action. The Service's reports and exhibits are enclosed. Also enclosed, for such assistance as it may be to you, is a copy of a prosecution memorandum prepared in this office, dated April 18, 1995, which should be retained as a permanent part of your own files. As a guide in preparing the indictment, refer to the form which begins on page 87 of the Forms Section in the 1994 Criminal Tax Manual.

It is crucial to the effectiveness of the Federal Tax Enforcement Program that cases warranting criminal prosecution be timely filed and promptly concluded. Accordingly, while the statute of limitations on the first offense will not run until June 21, 1999, the indictment should be returned at the earliest practicable time. In an effort to further facilitate the timely handling of this case, it is also requested that your office promptly attempt to ascertain the likelihood of a disposition by plea to the major count. The Tax Division's major count policy allows your office to accept a plea of guilty to such count without further approval of the Tax Division. The Department considers that the major count in the indictment in this case will be the count respecting the offense under Section 7212(a) for the year 1993.

In assessing the value of a plea solely to the major count, your office is urged to consider the timing of any proffered plea as it relates to a prompt disposition of the case. In this regard, reference is made to United States Attorneys' Manual 9-27.420 and the comments contained therein regarding prompt disposition. Accordingly, your office may decide to insist on a plea to more than the major count in those instances where it is deemed appropriate, and the Tax Division encourages you to do so. Disposition by plea to any additional counts currently authorized does not require further approval of the Tax Division. However, you are requested to contact this office before agreeing to a plea arrangement that does not include a plea to the designated major count.

It is Tax Division policy that criminal tax cases not be disposed of under the Department's pretrial diversion program. Accordingly, this case should not be placed in that program.

Please acknowledge receipt of this letter and its enclosures, and complete and return the attached form immediately. In due course, please provide us with two copies of the indictment, the date of return, the date and nature of any pleas entered, and the manner of final disposition of the case. ↙

Upon completion of the case, the Service's reports and those exhibits not produced subject to grand jury subpoena or otherwise subject to the secrecy requirement of Rule 6(e) of the Federal Rules of Criminal Procedure should be returned to the District Director, Internal Revenue Service, Attention: Chief, Criminal Investigation Division, by certified mail, return receipt requested.

Sincerely yours,

LORETTA C. ARGRETT  
Assistant Attorney General  
Tax Division

By:

J. RANDOLPH MANEY, JR.  
Chief, Southern Criminal  
Enforcement Section

Enclosures: 1 Volume

cc: Marshall H. Mullins  
Supervisor-in-Charge  
Internal Security Division  
Dallas, Texas



U. S. Department of Justice

Tax Division

Office of the Assistant Attorney General

Washington, D.C. 20530

LCA:JBF:NMyers  
FOIPA/TAX # 5908

NOV 24 1997



Dear Ms. [REDACTED]:

This is the final response by the Tax Division of the Department of Justice to your Privacy Act request dated October 8, 1997.

In your letter you seek access to a copy of the document bearing the signature of the Attorney General that authorized either a criminal or civil investigation to be conducted against you; a copy of the document bearing your signature that identifies the privilege with respect to certain activities that involve you with specific Alcohol, Tobacco & Firearms; a copy of the document signed by the Internal Revenue Service agent that was used as a sworn affidavit of probable cause to identify you as being a citizen of the United States subject to the jurisdiction of the "United States Corporate government;" a copy of the Notice of Assessment form 23(c) specific to me and no other indicating the liability; and a copy of the document showing that you are an officer, employee or elected official that wages and salary could be levied without a court order; and the authority of the agent signing such notice of levy.

Pursuant to 28 C.F.R. § 16.3, a regulation promulgated pursuant to subsections (j) and (k) of the Privacy Act, 5 U.S.C. § 552a, Tax Division systems of records have been exempted from the access provisions of the Privacy Act. However, your request has been processed under the standards of the Freedom of Information Act, 5 U.S.C. § 552, as amended by the Freedom of Information Reform Act of 1986, Pub. L. 99-570. X

With respect to your request for a copy of the written instrument bearing the signature of the Attorney General that authorizes a civil or criminal investigation to be conducted against you, we have located one (1) document which has been withheld in part. We have withheld material pursuant to the exemptions set forth in subsections (b)(3) and (b)(7)(C) of the Act. Exemption 3, in conjunction with Rule 6(e), federal Rules of Criminal Procedure has been applied to material reflecting confidential grand jury information. Exemption 3, in conjunction with 26 U.S.C. section 6102 has been applied to the

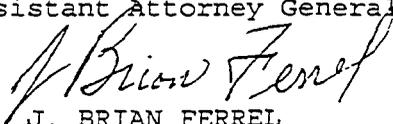
confidential tax return information of third parties. Release of some information could reasonably be expected to result in an unwarranted invasion of the privacy of third parties and Exemption 7(C) has been applied to this material.

In accordance with 28 C.F.R. § 16.8, you may appeal our determination within thirty (30) working days of receipt of this letter by writing to the Attorney General. The appeal letter and envelope should be marked "Freedom of Information Appeal" and should be addressed to Co-Director, Office of Information and Privacy, U. S. Department of Justice, Flag Building, Suite 570, 10th Street and Constitution Avenue, N. W., Washington, D. C. 20530. Thereafter, judicial review of the final determination, will be available in the District Court of the United States in the district in which you reside or have your principal place of business, in the district in which the agency records are located, or in the District of Columbia.

Sincerely yours,

LORETTA C. ARGRETT  
Assistant Attorney General

By:

  
J. BRIAN FERREL  
Assistant Section Chief  
Civil Trial Section, Eastern Region  
Tax Division

Enclosure (1) --



U.S. Department of Justice

Tax Division

CERTIFIED  
No. P14059499

LCA;ERP;TGVoracek  
5-58-10591  
9621349

Washington, D.C. 20530

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edmund A. Sargus, Jr., Esquire  
United States Attorney  
Southern District of Ohio  
220 U. S. Post Office and  
Courthouse  
Fifth and Walnut Streets  
Cincinnati, Ohio 45202

Re: Grand Jury Investigation  
~~\_\_\_\_\_~~ et al. Investigation  
Southern District of Ohio  
~~\_\_\_\_\_~~  
Concerning: ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

FOIA

Dear Mr. Sargus:

Reference is made to a letter dated March 20, 1996, from Regional Counsel, Internal Revenue Service, New York, New York, recommending a grand jury investigation of potential criminal tax violations in the above-entitled matter.

The Tax Division has determined that a grand jury investigation is warranted, and you are requested to initiate such action. The Internal Revenue Service is prepared to assist you in conducting this investigation.

This case falls within the purview of activity that the Attorney General has designated should be reported to the Domestic Terrorism Task Force. Accordingly, on April 16, 1996, this office made the initial report. A copy of that document is attached. The name of the Assistant assigned to investigate this case, as well as the required monthly updates, should be transmitted by facsimile to the Terrorism and Violent Crimes

D.J. FILE COPY



Section at (202) 514-8714. Please also forward the monthly updates by facsimile to the attention of Seth Uram or Nancy Silverman in this office at (202) 514-8455. Please note that this case is considered high priority and should, therefore, be handled expeditiously.

Pursuant to established procedures, no tax or tax-related charges, including charges to which a target has agreed to enter into a plea agreement, may be filed without prior approval of the Tax Division. You are reminded that any expansion of this grand jury investigation, to include additional targets, requires Tax Division approval as well. If you determine that use of the statutory compulsion process pursuant to 18 U.S.C. § 6003(b) or non-prosecution agreement with a witness ("letter immunity") are warranted, refer to the procedures set forth in U.S.A.M. § 9-23.000, et seq., and U.S.A.M. § 9-27.600, et seq., respectively.

Upon conclusion of the investigation, please provide the testimony, documents, and other materials accumulated by the grand jury to the assisting Internal Revenue Service agent for the sole purpose of analyzing the potential criminal tax aspect of the case and preparing a report setting forth his or her recommendation regarding prosecution. This report will be reviewed by the appropriate Internal Revenue Service Counsel, who will make a written recommendation regarding prosecution to the Tax Division.

You must provide the Tax Division with a written report of your views regarding the prosecution potential of this case, the non-tax charges, if any, that you intend to bring, and the anticipated date of indictment. In addition, the case should be submitted to the Tax Division for review at least 60 days prior to the date on which you need a decision.

If you and the Internal Revenue Service mutually determine that the investigation should be terminated and that no tax charges are appropriate, or if you mutually determine that a particular individual should be "detargeted," please promptly inform this office in writing, along with the reasons in support of your decision. If you and the Internal Revenue Service disagree regarding the termination of the case or the "detargeting" of any individual, then you should follow the same procedures outlined above regarding a recommendation for prosecution.



- 4 -

If you have any questions about this case, you may contact Tax Division attorney Thomas Voracek at (202) 514-2426. Please acknowledge receipt of this letter and its enclosures.

Sincerely yours,

LORETTA C. ARGRETT  
Assistant Attorney General  
Tax Division

By:  
EDWIN R. PIERCE, Chief  
Northern Criminal Enforcement Section

Enclosure  
One Volume

cc: Regional Counsel  
New York, New York

## Referral Path of Administrative Criminal Tax Cases

In general, the referral path of criminal tax cases are that the special agent's report is forwarded to District Counsel with a prosecution recommendation; should District Counsel determine that criminal prosecution is appropriate, District Counsel will prepare a criminal reference letter and forward the case to the Tax Division, Department of Justice, with a prosecution recommendation; should the Tax Division, Department of Justice determine that prosecution is warranted, the Tax Division, Department of Justice has the option to either prosecute the case itself or to write the United States Attorney, authorizing him/her to prosecute the subject of the investigation. The exceptions to this general rule follow.

**CRIMINAL INVESTIGATION DIVISION** → **DISTRICT COUNSEL** → **TAX DIVISION DEPARTMENT OF JUSTICE** → **UNITED STATES ATTORNEY**

• **Exception No. 1:** Under the following circumstances, cases can be directly referred from Criminal Investigation to the Tax Division, Department of Justice:

**CRIMINAL INVESTIGATION DIVISION** → **TAX DIVISION DEPARTMENT OF JUSTICE** → **UNITED STATES ATTORNEY**

- a. I.R.C. § 7205 cases involving supplying false or fraudulent withholding information on Form W-4. See IRM § 9625.2 and CCDM (31)4(14)0(3).
- b. Organized Crime Drug Enforcement Task Force (OCDETF) cases. See CCDM (31)130(b)3.

•• **Exception No. 2:** Under the following circumstances, cases can be directly referred from Criminal Investigation to the United States Attorney:

**CRIMINAL INVESTIGATION DIVISION** → **UNITED STATES ATTORNEY**

- a. Race track "ten percenter" cases involving arrests by special agents where prosecution is recommended under I.R.C. § 7206(2) or 18 U.S.C. § 371. See IRM § 9625.11 and CCDM (31)4(14)0(2)(a).
- b. Wagering occupational cases involving arrests by special agents which do not include recommendations for prosecution of other tax violations. See IRM § 9424 and CCDM (31)440(9)(c).
- c. Violations of Title 31 and related Title 18 offenses. (See general referral procedures when tax charge(s) also recommended. Or, if 31 U.S.C. § 5322(b) prosecution uses tax offenses as the "other law" being violated.) See IRM § 9625.13 and CCDM (31)4(14)0(2)(b).
- d. Violations of 18 U.S.C. §§ 1956 and 1957. See IRM § 9625.14 and CCDM (31)440(7). But, Counsel review and Tax Division, Department of Justice authorization is mandatory in cases involving violations of 18 U.S.C. § 1956(a)(1)(A)(i). See CCDM (31)4(14)0(2)(c).

••• **Exception No. 3:** Under the following circumstances, cases can be directly referred from Counsel to the United States Attorney, see CCDM (31)4(14)0(5):

**CRIMINAL INVESTIGATION DIVISION** → **DISTRICT COUNSEL** → **UNITED STATES ATTORNEY**

- a. I.R.C. § 7212(a), limited to forcible interference.
- b. I.R.C. § 7212(b).
- c. I.R.C. § 7215.
- d. All excise taxes other than gasoline and diesel fuel excise taxes.
- e. Coin-operated gaming devices.
- f. Violations of I.R.C. § 60501 (Form 8300) under I.R.C. §§ 7203 and 7206. When the subject of the investigation is: an accountant, physician, attorney, casino or casino employee, financial institution or their employees, however, the case must be referred to the Department of Justice. See CCDM (31)4(14)0(5)(d)2.
- g. 18 U.S.C. §§ 286 and 287. This is limited to cases: When an individual, for a single taxable year, files or conspires to file multiple tax returns on behalf of himself/herself, or files or conspires to file multiple tax returns in the names of nonexistent taxpayers or in the names of real taxpayers who do not intend the returns to be their own, with the intent of obtaining tax refunds to which he/she is not entitled. (The above exception does not apply when the returns are electronically filed.) See CCDM (31)4(14)0(5)(e).

*2nd  
FOIA  
ask for  
delegation order*

FREEDOM OF INFORMATION ACT REQUEST

TO: DEPARTMENT OF THE TREASURY FROM:  
DISCLOSURE OFFICER, MICHAEL ORMOND  
INTERNAL REVENUE SERVICE  
PO BOX 12267, STOP 68 Former Acct #:  
COVINGTON, KENTUCKY 41019

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

Dear Disclosure Officer:

1. This is a request under the FREEDOM OF INFORMATION ACT, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonably segregative. I am waiving inspection of the requested records.
3. PLEASE EXPEDITE THIS REQUEST.
4. This request pertains to me for the years: 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998.

BACKGROUND: Somebody from your office sent a correspondence (hereafter known as Exhibit A) from one of your examiner's and I cannot read the name.

5. Please send a copy of the documentation which shows the examiner's position and GS level with the IRS along with a printed copy of their name.

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

Sincerely,

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND SWORN:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

Internal Revenue Service  
District Director

Department of the Treasury

Date: November 17, 1999

In Reply Refer to: E:EB:

30 Day

Tax Year Ended and Deficiency:

12/31/1996 \$9,522

12/31/1997 \$15,637

12/31/1998 \$17,709

Person to Contact: Linda

#34-

Contact Telephone Number:

(

"Example only"  
do not send this in use the  
one they sent you

Dear Mr.

After examining your fiduciary tax returns, we believe that the tax should be adjusted. A copy of our report is enclosed.

If you accept our findings, please sign and return both the enclosed acceptance form and the waiver form. If additional tax is due, you may want to pay it now and limit the interest charge; otherwise, we will bill you. (See the enclosed Publication 1 for payment details.)

If you do not accept our findings, we recommend that you request a conference with our Office of Regional Director of Appeals. Most cases considered at that level are settled satisfactorily. If the proposed increase or decrease in tax is \$2,500 or less you may call the person whose name and telephone number appear above; he or she will arrange for your case to be forwarded to Appeals. If the proposed change to your tax is more than \$2,500 but is \$10,000 or less for any tax period, you must provide with a BRIEF written statement of the disputed issues. If the proposed change to your tax MORE THAN \$10,000 for any tax period, we will require a written protest. If you request a conference, we will forward your written statement or protest to the Office of Regional Director of Appeals and they will contact you to schedule an appointment.

If we do not hear from you within 30 days, we will have to process this case on the basis of the adjustments shown in the examination report. In regard to distributable income, a separate report will be made for each beneficiary or for the grantor. An addressed envelope is enclosed for your convenience.

If you have any questions, please contact the person whose name and telephone number are shown on this letter.

Thank you for your cooperation.

Sincerely yours,



C. Ashley Bullard  
District Director

Enclosures:

Examination Report  
Acceptance (Form 875)  
Waiver (Form 870)  
Publication 1  
Envelope

EXHIBIT A

009209

PAGE NO-0001

# IMF Reference Map

NO TC 42

## AREA 1

\*IMF MCC TRANSCRIPT-SPECIFIC\*

EMP NO 89...  
F-7102(2)

ACCOUNT NO XXX-XX-XXXX  
NAME CONT- MCCU

12-05-95  
CYCLE-9548

1 TC 148 HOLD 13 P

FOR-8999006610 BY-8999006610 ON-120595  
TIME-11134 SRC-1 F-7102(2)

TYPE-3-10-9012  
PROCESSED ON-339  
REQUESTED TAX MODULE FOUND ON MF

90 J M WAXSON  
SMITH Rd.  
9348 HOLISTER

LCC-7701  
YEAR REMOVED- ENT EXT CYC-9545

4871-434 SPOUSE SSN-XXX-XX-XXXX  
PRICR NAME CONTROL- FZ  
3 MFR-01 VAL-1 IRA-000100000000000 CAF-  
6 FYM-12 SCS- GRINY- 130-  
RPTR-1 PMF- SHEL- BNKRPT- BLLC-  
ACCRETION- MIN SE-  
JUSTIFICATION- IRS ENPL

CVPR OLEN M WAXSON

13 LAST RET-92 H/E- 14 COND-E FLC-89 9409

15 TAX PERIOD 30 9012

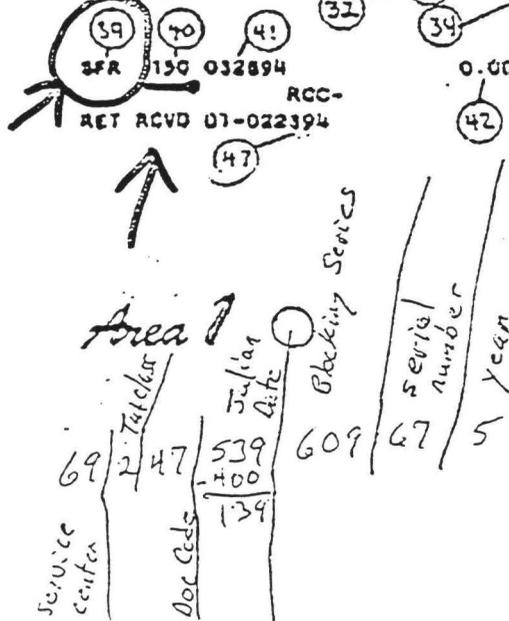
18 FB-3 19 CRINV-  
24 TOA COPY3-

20 REASON CD- 2 MOD EXT CYC-9545  
LIEN- 69247-339-60967-5 CAF- FZ  
21 TOI COPY3-0003665

21 INT TOLERANCE- MATH INCREASE- HISTORICAL DQ-77 DWNC- SWI-  
26 27 28 29

30 ACCRUED BAL- 1,966.00-  
31 ACCRUED INTEREST- 0.00 112095  
32 ACCRUED PENALTY- 0.00 112095  
33 34 35 36 37 38 39  
40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99

3FR 139 032894  
RCC-  
RET RCVD 01-022394



9411 89210-057-04101-6 CRD- SRC-  
44 TAX PER T/P- 46 0.00  
50 F/G- AGI- 48 0.00  
51 ACIC- 57 3.00  
55 EXEMPT-01 ENRGY- 57 0.00  
58 TAXABLE INC- 59 0.00  
60 PENALTY SUPP-1000- 61 0.00  
62 TOTAL WAGES- 62 0.00  
63 TOTAL INC TX- 63 0.00  
64 EST TAX BASE- 65 0.00  
66 PR YR BASE- 66 1,646.00  
67 SHORT YR CU- 67 0.00  
68 1ST SE- 0.00 2ND SE- 0.00  
70 ACCT TYPE- 72  
71 BANK ACCT NUM- 73  
74

CONTINUED ON NEXT PAGE  
Contact UIPL, Box 463, Owensville, Ohio 45160

INDIVIDUAL MASTER FILE MARTINSBERG COMPUTER CENTER  
TRANSCRIPT - SPECIFIC

Area 1. Miscellaneous and return information

1. Transaction and hold codes =
2. Year of I M F file =
3. Filing requirement codes =
4. Invalid SSN freeze =
5. Master File freeze codes =
6. Fiscal year month =
7. Criminal investigation indicator =
8. TC 130 indicator =
9. Bankruptcy indicator =
10. Bankruptcy litigation indicator =
11. Self employment tax exempt code =
12. Entity extraction cycle =
13. Last return filed year =
4. Math error code =
5. Filing condition code =
6. File location code =
7. Cycle latest return posted, date =
8. Filing status =
9. Criminal investigation indicator =
0. Lien indicator =
- .. Abolishment Date For IMF =
- ! Left hand freeze code =
- . Right hand freeze code =
- . Tax delinquent account collection potential yield score =
25. Interest tolerance code =
26. Math error increase tax indicator =
27. Historical district office =
28. Notice count =
29. Backup with-holding indicator =
30. Master file module balance =
31. Accrued interest amount =
32. Accrued penalty amount =
33. Master file computed to date, interest =
34. Master file computed to date, penalty =
35. Collection statute expiration date =
36. Refund statute expiration date =
37. Accounts receivable dollar inventory =
38. Assessment statute expiration date =
39. For B M F returns =
40. Transaction code =
41. Transaction date =
42. Transaction amount =
43. Transaction cycle =
44. Reserved for IAS use =
45. Correspondance received date =
46. Tax per tax payer =
47. Return received date =
48. Adjusted gross income =
49. Schedule F, C, indicator =
50. Foreign source of income =
51. Farmer / fisherman indicator =
52. M F - P code =
53. Cross reference T I N =
54. Advanced earned income credit =
55. Principal industry activity code =
56. Number of exemptions =
57. Residential energy credit =
58. Lifetime tax exclusion indicator =
59. Taxable income =
60. Penalty suppress indicator =
61. Self employment tax =
62. Total wages =
63. Total income tax =
64. Minimum delinquency penalty code =
65. Estimated tax base amount =
66. Prior year base amount =
67. Short year code =
68. Estimated tax forgiveness percentage =
69. Self employment income primary =
70. Self employment income secondary =
71. Routing transit number =
72. Account type =
73. Bank account number =
74. Electronic funds transfer indicator =
75. Form 8615 indicator =
76. Un-applied credit elect amount =
77. Estimated penalty indicator =
78. Estimated tax payment claimed amount =

3(27)(68)1.4 (1-1-90)  
Authority for Other Documents

LEM 3(27)(68)0 provides the authority for two other documents, the contents of which are extracted from this manual. They are (1) Document 6209—ADP and IDRS Information, and (2) Document 5576—Vest Pocket Edition ADP Transaction Codes. Only Document 6209 is for Official Use Only.

3(27)(68)2 (1-1-90)  
Entity Codes

3(27)(68)2.1 (1-1-90)  
General

The Entity Codes identify the taxpayer as to account number, filing requirements, location, etc., and are recorded in the Entity Section of a taxpayer's account on the Master File.

3(27)(68)2.2 (1-1-90)  
Entity Account Number

(1) Each taxpayer account is maintained on the BMF, IMF, IRAF, or EPMF in Entity Account Number sequence. All returns and transactions processed must contain the taxpayer's correct account number. The Entity Account Number (EAN) or Taxpayer Identification Number (TIN) are also referred to as Employer Identification Number (EIN) or Social Security Number (SSN).

(2) BMF Entity Account Number—a nine-digit number assigned by the Internal Revenue Service Centers (SC) to taxpayers who must file business returns, officially entitled Employers' Identification Number. The printed format is: xx-xxxxxxx. Form 706 and 709 accounts will be in Social Security Number (SSN) sequence.

(3) IMF and IRAF Entity Account Number—The nine-digit Social Security Number assigned by the Social Security Administration to all individuals required to file individual returns. The printed format is: xxx-xx-xxxx.

(4) EPMF Accounts—Accounts are maintained in Employer Identification Number sequence.

(5) Temporary IMF or IRAF Social Security Number—a nine-digit temporary number assigned by the Service Center: (9xx)-(xx)-(xxxx).

(a) 900 through 999—indicates number is a temporary SSN.

(b) The code of the service center assigning the number.

(c) Numbers assigned consecutively beginning with 0001.

(d) The printed format of a Temporary IMF or IRAF Entity Account Number is Txxxxxxx.

(6) IMF and IRAF: For printing on other than taxpayer notices and transcripts, a tenth digit (either zero or one and referred to as the SSN Validity Digit) is shown to the right of the 9-digit SSN. An asterisk (\*) appears next to the SSN on taxpayers notices and transcripts to indicate the SSN is invalid for the particular taxpayer.

SSN Validity Digit	Explanation
0	The SSN is valid for the taxpayer using it.
1	The SSN is not valid for the taxpayer using it.

RPTRN 9096000000 \* (TY96) IRMF ON LINE TRANSCRIPT SYSTEM \*  
TIN- TIN TYPE AND VALIDITY- 0 DOCUMENT CODE- 00 PAGE 0012 OF 0016  
DOCUMENT TYPE: 1099-MISC ON FILE DATE: 05-27-97 ORIGINAL SUBMISSION  
PAYEE ENTITY DATA: SSN -- VALID SSN

MONEY SECTION  
NONEMP COM.....\$12,583+

CINCINNATI  
STATE: OH ZIP: -0000

ACCOUNT NUMBER: 000027  
PAYER ENTITY DATA: EIN 31-1097  
INC

NO MAIN ST  
DAYTON OH 45.

PAYER'S SUBMISSION DLN: 31569064076347  
TRANSMITTER CONTROL CODE: N/A  
SUBMITTED TO: IRS ON: PAPER  
NOT DIRECT SALES

NO SECOND NOTICE

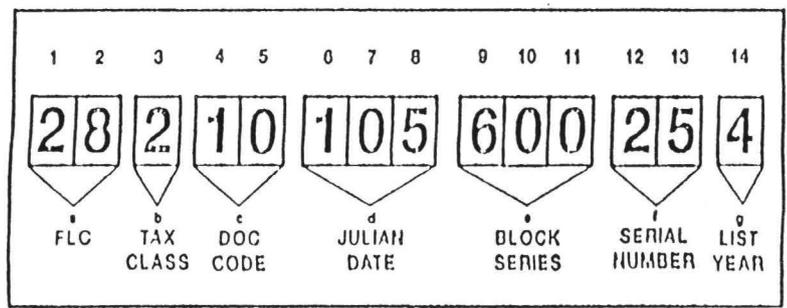
ENTER DEFINER=(N)EXT, (P)REVIOUS, PAYE(E), PAYE(R), HARD(C)OPY, IRPO(L), (O)NLINE

Please send me all documents contained in Document Locator Number \_\_\_\_\_ that pertain to me.

# Section 4. Document Locator Number

## .01 DLN Composition

- (1) The document locator number (DLN) is a controlled number assigned to every return or document input through the ADP system. The fourteenth (last) digit is the year of processing and is assigned by the Service Center computer at the time of the original input.
- (2) The DLN is used to control, identify, and locate documents processed in the ADP system.
- (3) The DLN should not be confused with the tax account number which consists of nine digits, for example:  
 Social Security Number.....XXX-XX-XXXX (M/F, M/F)  
 Employer Identification Number.....XX-XXXXXXX (D/M/F, F/P/M/F)  
 NOTE: A temporary Social Security Number is sometimes assigned by the Service Center. It consists of nine digits. The first three digits (900-999) indicate the number is temporary. The 4th and 5th digits are the code of the Service Center assigning the number. The last four digits are numbers assigned consecutively beginning with 0001. The printed format is TXXXXXXXX\* (T indicates a temporary social security number, and the asterisk (\*) indicates the number is invalid).
- (4) Returns and documents are blocked and filed by DLN.
- (5) The format for a DLN is as follows:



- (a) The first two digits of DLN consist of the Filing Location Code (Service Center or District Office). The Service Center codes have replaced the District Office Codes in the DLN. District Office Codes are still used in IDRS and other district initiated transaction DLNs. During heavy filing periods, D.O. Codes will be used as the Filing Location Code to handle overflow conditions but will not correspond to the actual filing location.
- (b) The third digit is the tax class. This identifies the type of tax each transaction involves.
  - 0 - Employee Plans Master File (EPMF)
  - 1 - Withholding and FICA
  - 2 - Individual Income Tax, Fiduciary Income Tax, Partnership return
  - 3 - Corporate Income Tax, 9900, 9901
  - 4 - Excise Tax
  - 5 - Information Return Processing (IRP), Estate and Gift Tax
  - 6 - IMF

- 7 - CI-1
- 8 - FUTA
- 9 - Mixed - Segregation by tax class not required
- (c) The fourth and fifth digits are the document codes. These are shown in this book in Section 2 by form number. Certain document codes can be applicable to more than one type form or tax. The most frequently encountered are:
  - 17 - Subsequent payment input by Service Center
  - 18 - Subsequent payment input by District Office
  - 47 - Examination Adjustment
  - 54 - DP Adjustment
  - 63 - Entry changes
- (d) The sixth, seventh and eighth digits are the control (Julian) dates. This would be the deposit date of remittance received with a return or payment documents; Sunday date when numbering NR returns that week; transfer date transfer of credits; current date when not otherwise specified. The control date for IDRS and Remittance Processing System (RPS) input transactions is incremented by 400 to avoid duplicate DLNs. Subtract 400 to determine control date.
- (e) The ninth, tenth and eleventh digits are the block numbers. Complete information can be found in IRM30430 for Remittance Documents and IRM310720 for Non-remittance Documents for blocking series. See section 4.09 for Returns Processing Adjustment Blocking Series.
- (f) The twelfth and thirteenth digits are the serial numbers. The maximum number of records within a block is 100 and they are serially numbered from 00 thru 99.
- (g) The fourteenth digit is the year last year digit of the year the DLN was assigned. This digit is Computer Generated.
- (6) The original DLN of the return follows Transaction Code 150. If there has been a Data Processing or Examination Adjustment which created a refile DLN, a letter X following the DLN will denote that the return is now filed under the refile DLN.

1997 6209 IDR B  
 50<sup>th</sup> VIA  
 Box 463  
 Owensville, Ohio  
 45160

122

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

**3(15)(129)9.(11) Adjustment to Virgin Island Forms 1040 and 1040A**

- (1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.
- (2) Action:
  - (a) Check TC 150 DLN for blocking series 88 (Virgin Island);
  - (b) Write "Virgin Island TP" on the transmittal; and
  - (c) Send 86C Letter to taxpayer notifying him/her of the transfer.

**3(15)(129)9.(12) Underreporter/CP2000 Issues**

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



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

EXh F-2  
SEE G-2

[REDACTED]

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

Dear Mr. [REDACTED]

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

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

Sincerely,

Barry Windheim  
Program Analyst  
Freedom of Information

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

United States of America

vs.

Fred W. Allnutt, Sr.

Criminal No. L-95-0295

and

Christopher Allnutt

Baltimore, Maryland

March 12, 1996

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

EXCERPT FROM TRANSCRIPT OF PROCEEDINGS

TESTIMONY OF MARTIN MALARKEY

APPEARANCES

For the U.S.A.:

Ethan L. Bauman

and

Dale Kelberman

1 THE COURT: Just a moment. I want you to summarize  
2 what the documents are.

3 THE WITNESS: Those documents show --

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

6 THE WITNESS: Those documents are the summations of  
7 your tax account for the year requested for the social  
8 security number requested.

9 THE COURT: Very well.

10 Q Now a tax module is established when a tax payer files  
11 the tax return, isn't that correct?

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

14 Q If no tax return is filed there is no tax module, is  
15 that correct?

16 A No, sir.

17 Q Don't you have to fool the computer and input a  
18 transaction code 150 to trick the computer into believing a  
19 tax module was opened?

20 A Well, the service --

21 MR. KELBERMAN: Your Honor, I am going to have to  
22 object at this point. This is a matter for cross examination.  
23 We are on the subject of direct and whether or not the witness  
24 can testify regarding a search of records.

25 THE COURT: The objection will be overruled.

1 MR. DICKSTEIN: Thank you.

2 THE WITNESS: Repeat the question, please.

3 Q Isn't it true that someone at the service center has to  
4 input a transaction code 150 to trick the computer into  
5 opening up a tax module?

6 A That is correct.

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

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

9 code is established.

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

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

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

14 A Not by number, no.

15 Q That is the manual, the IDRS manual?

16 A Oh, yes.

17 Q And the documents kept in the computer are all in code,  
18 aren't they?

19 A Yes, they are.

20 Q And the IDRS manual is used to decode the document,  
21 isn't correct?

22 A That is correct.

23 Q Sir, let me hand you a IDRS manual and refer to you  
24 Section 8-9 for transaction code 150, would you please read to  
25 the jury what transaction code 150 on stands for?

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

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

3 A Return filed and tax liability assessed.

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

6 A I thought you said the date. TC 150 does not establish  
7 the date it was filed.

8 Q No, but it stands for the proposition that a tax return  
9 was filed and a liability was assessed?

10 A That is correct.

11 Q So we have a 150 transaction code that indicates the tax  
12 return was filed?

13 A Yes, sir.

14 Q Except in this case you are testifying that no tax  
15 returns were filed?

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

17 Q Right, the I.R.S. made up what is called a dummy return,  
18 didn't they?

↓ 19 A Substitute for return, yes.

20 Q And they put zeros on it, right?

21 A Yes, sir.

22 Q So you tricked the computer, was that a correct return  
23 by the way?

24 A The dummy return, the substitute return?

25 Q Yes, with zeros on it?

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

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

4 MR. KELBERMAN: May he complete his answer?

5 A The document substitute for return is accompanied by a  
6 detailed tax calculation so that we will know how much tax to  
7 assess.

8 Q It is something that you created in order to have the  
9 computer open up the tax module, is that correct?

10 A Something that the service created.

11 Q So it doesn't have the, the truth is this doesn't  
12 reflect anything about the taxpayer other than what you put  
13 into it?

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

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

16 A I did not.

17 Q Who did?

18 A I don't know.

19 Q But, in fact, this information was taken off of the  
20 complete master file, right?

21 A It was taken off the IDRS system.

22 Q Right, from the individual master file?

23 A Right.

24 Q And this is an analysis of some of the things on the  
25 master file, is that right?

1 A Yes.

2 Q So if we wanted the complete record we would need the  
3 complete master file, is that correct?

4 A It would show more information.

5  MR. DICKSTEIN: We still have a lack of foundation,  
6 Your Honor. We also have documents that have been fabricated.

7 THE COURT: That have been what?

8 MR. DICKSTEIN: They have been fabricated.

9 THE COURT: I understand. You don't need to go any  
10 further. Do you have any further questions on voir dire?

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

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

14 THE COURT: Yes.

15 MISS MURDOCK: Thank you.

16 (There was a pause in the proceedings.)

17 MISS MURDOCK: I have no questions.

18 THE COURT: You may proceed and complete the voir  
19 dire, if you would like.

20 REDIRECT EXAMINATION ON VOIR DIRE

21 BY MR. KELBERMAN:

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

23 THE COURT: I am going to ask you again, I am not  
24 clear as to what document you have before you, don't  
25 summarize.

## FREEDOM OF INFORMATION ACT REQUEST

Certified Mail # ~~XXXXXXXXXX~~

Director,  
Internal Revenue Service  
Central Region  
P.O. Box 1818, Room 4015  
Cincinnati, Ohio 45201

This letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

INITIAL \_\_\_\_\_

Attn: Disclosure Officer

From: Tom  
c/o Baltimore Ave.  
Fairfield, Ohio Postal Zone  
Assigned Social Security Account Number:

RE: REQUEST FOR NOTIFICATION AND ACCESS

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 cost for location duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (F).
2. If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category (E) requester.
4. This request pertains to the years 1987 through 1995.
5. Please send me a copy of the "Substitute for Return" prepared by Internal Revenue Service, that pertains to me.
6. Please send me a copy of the document which identifies the person who prepared the substitute for return, in my case.
7. Please send me a copy of the documents upon which the audit function based the substitute for return.

Freedom of Information Act Request

in like manner make a return as to such part of the gross estate.

(c) Election under section 2210.

In all cases in which subsection (a) requires the filing of a return, if an executor elects the applications of section 2210—

(1) **Return by executor.** The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

(2) **Return by plan administrator.** The plan administrator of an employee stock ownership plan or the eligible worker-owned cooperative, as the case may be, shall make a return with respect to that portion of the tax imposed by section 2001 which such plan or cooperative is required to pay under section 2210(b).

In '84, P.L. 98-369, Sec. 544(b)(3), added subsec. (c), effective for those estates of decedents which are required to file returns on a date (including any extensions) after 7/18/84.

In '81, P.L. 97-34, Sec. 401(a)(2)(B)(i), substituted "\$600,000" for "\$175,000" in para. (a)(1) . . . Sec. 401(a)(2)(B)(ii), amended para. (a)(3), effective for estates of decedents dying after 12/31/81. Prior to amendment, para. (a)(3) read as follows:

"(3) Phase-in of filing requirement amount. In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '\$120,000' for '\$175,000';

"(B) in the case of a decedent dying during 1978, by substituting '\$134,000' for '\$175,000';

"(C) in the case of a decedent dying during 1979, by substituting '\$147,000' for '\$175,000'; and

"(D) in the case of a decedent dying during 1980, by substituting '\$161,000' for '\$175,000'."

In '76, P.L. 94-455, Sec. 2001(c)(1)(J), substituted "\$175,000" for "\$60,000" in para. (a)(1) . . . substituted "\$60,000" for "\$30,000" in para. (a)(2) . . . added paras. (a)(3) and (a)(4), for estates of decedents dying after '76.

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

In '66, P.L. 89-809, Sec. 108, amended subsec. (a)(2) for estates of decedents dying after Nov. 13, '66. Prior to amendment a return was required if the gross U.S. estate exceeded \$2,000.

**Sec. 6019. Gift tax returns.**

Any individual who in any calendar year makes any transfer by gift other than—

(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year, or

(2) a transfer of an interest with respect to which a deduction is allowed under section 2523,

shall make a return for such year with respect to the gift tax imposed by subtitle B.

In '81, P.L. 97-34, Sec. 403(b)(3)(A), amended subsec. (a) . . . Sec. 403(c)(3)(B), repealed subsec. (c), effective for gifts made after 12/31/81. Prior to amendment, subsec. (a) read as follows:

"(a) *In general.*

"Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B."

Prior to repeal, subsec. (c) read as follows:

"(c) *Tenancy by the entirety.*

"For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c)."

—P.L. 97-34, Sec. 442(d)(2), repealed subsec. (b), for gifts made after 12/31/81. Prior to repeal, subsec. (b) read as follows:

"(b) *Qualified charitable transfers.*

"(1) *Return requirement.* A return shall be made of any qualified charitable transfer—

"(A) for the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

"(B) if no return is required to be filed under subparagraph

(A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

"(2) *Definition of qualified charitable transfer.* For purposes of this section, the term 'qualified charitable transfer' means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred."

In '70, P.L. 91-614, Sec. 102(d)(3), substituted new Sec. 6019, effective for gifts made after 12/31/70. Prior to amendment, it read as follows:

"Sec. 6019. GIFT TAX RETURNS.

"(a) *In general.*

"Any individual who in any calendar year makes any transfers by gift (except those which under section 2503(b) are not to be included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B.

"(b) *Tenancy by the entirety.*

"For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c)."

**SUBPART D.—MISCELLANEOUS PROVISIONS**

Sec.

6020. Returns prepared for or executed by Secretary.

6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.

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

(a) **Preparation of return by Secretary.**

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

(b) **Execution of return by Secretary.**

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

(2) **Status of returns.** Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

In '84, P.L. 98-369, Sec. 412(b)(4), deleted "(other than a declaration of estimated tax required under section 6015)" after "any return" in para. (b)(1), effective for tax yrs. begin. after 12/31/84.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6020, effective 2/1/77.

In '68, P.L. 90-364, Sec. 103, amended subsec. (b)(1) by deleting "or 6016" at end of parenthetical phrase, applicable with respect to tax yrs. begin. after 12/31/67. For special provision on effective date see Sec. 104 of the P. L., reproduced after Code Sec. 6425.

**Sec. 6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.**

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the Secretary, as required by law or by regulations prescribed pursuant to law, the Secretary shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary and make lists of the

Substitute for return prepared by Examination Branch - Stop 82

Form **1040** U.S. Individual Income Tax Return (01) **1997**

Department of the Treasury—Internal Revenue Service  
 For the year Jan. 1—Dec. 31, 1997, or other tax year beginning 1997, ending 1997, ending 19 OMB No. 1545-0074  
 IRS Use Only—Do not write or staple in this space.

**Label**

(See instructions on page 10.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See page 10.)

**L A B E L H E R E**

Your first name and initial	Last name
If a joint return, spouse's first name and initial	Last name
Home address (number and street). If you have a P.O. box, see page 10.	APT. no.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 10.	

Your social security number

Spouse's social security number

For help in finding line instructions, see pages 2 and 3 in the booklet.

Yes	No	Note: Checking "Yes" will not change your tax or reduce your refund.

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

**Filing Status**

Check only one box.

- 1  Single.
- 2  Married filing joint return (even if only one had income) **3**
- 3  Married filing separate return. Enter spouse's social security no. above and full name here. ▶
- 4  Head of household (with qualifying person). (See page 10.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5  Qualifying widow(er) with dependent child (year spouse died ▶ 19 ). (See page 10.)

**Exemptions**

If more than six dependents, see page 10.

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

b  Spouse . . . . .

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) No. of months lived in your home in 1997

d Total number of exemptions claimed

No. of boxes checked on 6a and 6b

No. of your children on 6c who:

- lived with you
- did not live with you due to divorce or separation (see page 11)

Dependents on 6c not entered above

Add numbers entered on lines above ▶

**Income**

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 12.

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

7	Wages, salaries, tips, etc. Attach Form(s) W-2 . . . . .	7	
8a	Taxable interest. Attach Schedule B if required . . . . .	8a	
b	Tax-exempt interest. DO NOT include on line 8a . . . . .	8b	
9	Dividends. Attach Schedule B if required . . . . .	9	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 12) . . . . .	10	
11	Alimony received . . . . .	11	
12	Business income or (loss). Attach Schedule C or C-EZ . . . . .	12	
13	Capital gain or (loss). Attach Schedule D . . . . .	13	
14	Other gains or (losses). Attach Form 4797 . . . . .	14	
15a	Total IRA distributions . . . . . 15a	b Taxable amount (see page 13)	15b
16a	Total pensions and annuities . . . . . 16a	b Taxable amount (see page 12)	16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E . . . . .	17	
18	Farm income or (loss). Attach Schedule F . . . . .	18	
19	Unemployment compensation . . . . .	19	
20a	Social security benefits . . . . . 20a	b Taxable amount (see page 14)	20b
21	Other income. List type and amount—see page 15 . . . . .	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	
23	IRA deduction (see page 16) . . . . .	23	
24	Medical savings account deduction. Attach Form 8853 . . . . .	24	
25	Moving expenses. Attach Form 3903 or 3903-F . . . . .	25	
26	One-half of self-employment tax. Attach Schedule SE . . . . .	26	
27	Self-employed health insurance deduction (see page 17) . . . . .	27	
28	Keogh and self-employed SEP and SIMPLE plans . . . . .	28	
29	Penalty on early withdrawal of savings . . . . .	29	
30a	Alimony paid b Recipient's SSN ▶	30a	
31	Add lines 23 through 30a . . . . .	31	
32	Subtract line 31 from line 22. This is your adjusted gross income ▶	32	

**Adjusted Gross Income**

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC inst. on page 21.

FREEDOM OF INFORMATION ACT REQUEST

To: Disclosure Officer  
Internal Revenue Service  
PO Box 1445500, Stop 68  
Cincinnati, Ohio 45250-5500

From:

Account #:

DATE: \_\_\_\_\_

Dear Disclosure Officer:

This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (F). If some of this request is exempt from release, please furnish me with those portions reasonably able to be segregated. I am waiving inspection of the requested records. I am attesting under penalty of perjury that I am a Category E requester.

BACKGROUND: According to the IRM Non Master File, there must be an "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER FILE TRANSCRIPT" created before any assessment for any type of tax can be issued. SEE ATTACHED EXHIBIT #.

1. This request pertains to the years: \_\_\_\_\_
2. Please send me the "OFFICIAL INTERNAL REVENUE SERVICE NON-MASTER TRANSCRIPT" for the above years that pertain to the above referenced Account number and individual, that would have to have been created before any assessment could be created.

\_\_\_\_\_  
, Requester

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND AFFIRMED:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

Department of the Treasury - Internal Revenue Service  
 Document Locator Number 77647-120-00401-90  
 Taxpayer ID Number: 573-20-1686N  
 Notice Date.....: 04/30/90  
 Type of Tax.....:   
 Master File Tax....: 28  
 Form Number.....: CVPN  
 Period ending.....: 03/31/79 YEA,  
 ALL YEARS 78 THRU 98 ARE THE SAME  
 Abstract Number....: 139  
 Civil Pen. Ref. No.   
 POA on File?..... No

7803  
 7701-  
 Second Notice.....06/11/90  
 Third Notice.....07/23/90  
 Fourth Notice.....10/22/90  
 TDA.....12/03/90  
 53 Status.....09/02/94  
 Claim/Adj Pending.  
 OIC Status.....  
 Collection Expir..04/29/00  
 Penalty/Interest..

23C Date...04/30/90  
 REF CODE 6677 FAILURE TO FILE INFORMATION  
 RETURNS WITH RESPECT TO CERTAIN FOREIGN TRUSTS

Transfer Sch. Number:.

TRANS DATE	DESCRIPTION	CC	DOCUMENT LOCATOR	POSTING DATE	TRANS AMOUNT
04/30/90	240 MISC PENALTY		77647-120-00401-90	09/14/90	1,000.00
01/24/91	552 LIEN IND		77677-425-00014-91	02/08/91	0.00
04/28/94	530 ACCT 53 STAT. 12	89677-522-00010-94		05/17/94	0.00
03/25/94	520 LITIGATION 70	77677-641-00009-94		09/16/94	0.00
09/02/94	530 ACCT 53 STAT. 12	89677-650-22100-94		09/24/94	0.00
02/25/94	520 LITIGATION . 70	77677-650-00013-94		09/27/94	0.00
02/07/96	670 PAYMENT	77624-160-40002-96		06/28/96	1,669.25
06/26/96	521 REV TC520	89677-580-00002-96		07/24/96	0.00
08/19/96	340 RES INT ASMN	77654-212-24700-96		08/06/96	669.35

530 UNCOLLECTABLE  
 ACCOUNT

08/06/96 Account Balance: 0.00  
 Accrued Penalty : 0.00  
 08/26/96 Accrued Interest: 669.94

\*\*\*\*\*  
 Date of Entry HISTORY  
 \*\*\*\*\*

06/26/96 TC 521 per ltr fr Central CA Appeals Office  
 File # 1117, Memo # 0411

07/17/96 TC340 1669.95 in full.

For more information contact UPL, Box 467, Owensville, Ohio 45150

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

4828 (C) 6:194V **CP504**  
 09/91 Destroy Immediately  
**Interest and Additional Tax Notice**  
 This form is used to solicit additional tax interest, and applicable penalties in correspondence type examinations. CP:EX:ED Tax Related Public Use

4835 13117W Each  
 1994 Min Supply for Late Filers  
**Farm Rental Income and Expenses**  
 Used by land owner (or sublessor) to report gross farm rental income based on crops or livestock shares where he does not materially participate in the operation or management of the farm. PC:FP:F:1 Tax Form or Instruction

4840 (C) 27250S Each  
 01/90 Destroy Prev Issues Upon Rec  
**Final Notice - TDA (CP-504)**  
 This is a Non-Masterfile final notice before seizure (CP-504) and is used to notify taxpayer of an unpaid delinquent account. Forms 8125 and 8126 were used for computer printing. Now Overlay #36 (cat.#10710Z) is used in place of these two forms. R:R:A Tax Related Public Use

4844 23470Y Pad of 100  
 10/81 Use/Issue Prev Issue First  
**Request for Terminal Action**  
 Form 4844 is a multi-purpose request form used to input or extract IDRS data. This revision reflects a new checkbox area to be completed when requesting input of a control base (relative to narcotic, tax protester, and special enforcement cases). CP:CO:O:2:SP Internal Use

4845 23475B Pad of 100  
 09/90 Destroy Prev Issues Upon Rec  
**TDA/TDI Reassignment Request**  
 Form 4845 is used to request the IDRS terminal operator to change an assignment code. CO:O:2:FP Internal Use

4852 42058U Each  
 08/93 Destroy Prev Issues Upon Rec  
**Substitute for Form W-2, Wage and Tax Statement or Form 1099R, Distribution From Pensions, Annuities**  
 Form is used by taxpayers to estimate wages and income taxes withheld when Form W-2 is not available from employer. T:T:F:O Tax Related Public Use --

4861 27257R Each  
 12/80 Use/Issue Prev Issue First  
**NMF Block Summary**  
 Form 4861 can be used in place of the back page of Form 813, Document Register. It is used by Accounting Branch personnel to summarize District payments for journalization purposes (recording data). The completed form is routed to the Data Control area for use and subsequent filing. R:R:A Internal Use

4862 42066U Each  
 06/86 Destroy Prev Issues Upon Rec  
**Statement of Income Tax Changes**  
 Form 4862 is used for computing a taxpayer's revised tax liability. CC:AP:PT Tax Related Public Use

4864 23495T Pad of 100  
 03/84 Destroy Prev Issues Upon Rec  
**Request for Delinquency Notice or TDI**  
 Form 4864 is an input document for DDES (Direct Data Entry System) to transcribe standard data fields as input to IDRS for delinquent filers, as determined by district or service center employees. The prescribing instructions are ADP Handbook 354-76 and IRM 5(18)00. CO:O:CP Internal Use

4868 13141W Each  
 1994 Min Supply for Late Filers  
**Application for Automatic Extension of Time to File U.S. Individual Income Tax Return**  
 Used by individuals to request an automatic 4-month extension of time to file Form 1040, U.S. Individual Income Tax Return. PC:FP:F:1 Tax Form or Instruction

4869 2 PT (C) 61621V Each  
 11/71 Use/Issue Prev Issue First  
**Machine Stationary**  
 Form 4869 is machine stationary which can be used for IDRS terminal output & other reports printed on small blank stationary. R:R:T:P Internal Use

4872 42074U Pad of 50  
 10/88 Destroy Prev Issues Upon Rec  
**District Office (Non ACS) Activity Report**  
 Form 4872 is used for accumulating feeder data for IDRS reporting. Monthly staff hours expended in collection activities are reported. Reports previously submitted on Forms 5450-B and 8466 are combined onto Form 4872. Supercedes Form 5450-B: Form 8466 is obsolete. CO:M Internal Use

4872 A 60128F Each  
 10/93 Destroy Prev Issues Upon Rec  
**Automated Collection Branch Automated Monthly Report**  
 Form used to account for staff hours expended to ACS call sites in order to provide information for budget formulation. CO:A:SD:AS Internal Use

4872 B 63615L Pad of 50  
 07/88 Use/Issue Prev Issue First  
**Collection Daily Time Utilization Report**  
 Form 4872B is a combined report of collection daily time use. The reports previously submitted on Forms 5450, 5450-A, and 8486 are combined on Form 4872B. Form 4872B supersedes Form 5450. Forms 5450-A and 8486 are obsolete. CO:M Internal Use

4876 A 62075X Each  
 04/93 Destroy Prev Issues Upon Rec  
**Election to be Treated as an Interest Charge DISC**  
 A corporation files Form 4876-A to elect to be treated as an interest charge domestic international sales corporation (IC-DISC). Once the election is made, it is effective until terminated or revoked. It applies to each person who owns stock in the corporation while the election is in effect. T:FP:F:D Tax Form or Instruction

4881 42082U  
 01/77 Destroy Prev Issues Upon  
**Chapter 42 Taxes - Disqualified Foundation Manager**  
 This document is used as a procedure by Manual accounting in Service Center. The current form is difficult to use for that purpose design of the format will make smoother method of procedure. E:O:E Internal Use

4883 42083F  
 07/74 Destroy Prev Issues Upon  
**Private Foundation Audit Change Function transferred from Audit Form 4883 will be the permanent Revenue Agents Auditing Private Foundations. E:EO Internal Use**

4891 42087X  
 01/72 No Previous Issue  
**Evaluation of Instructor**  
 This form is used to make standardations of "contract" instructors used in training classes. The form is optional use to evaluate IRS instructors. It is submitted at the end of each training. HR:T Internal Use

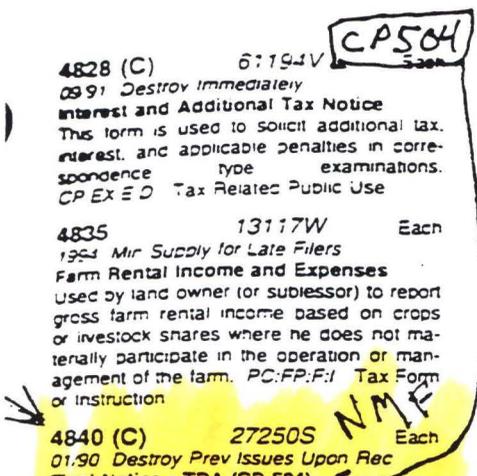
4892 42088I  
 01/85 Destroy Prev Issues Upon R  
**RPS Error Flag**  
 Form 4892 is used by RPS operators to identify each uncorrected RPS (Rer Processing System) error made within block of checks/returns during the retransmission process in the Deposit. R:R:D Internal Use

4905 (C) 27300N  
 11/76 Use/Issue Prev Issue First  
**IDRS Delinquent Account Notices Taxpayers**  
 This is a multi-purpose IDRS form used to generate TDA notices. CO:O Tax Related Public Use

4906 1 PT (C) 27305Q  
 01/83 Use/Issue Prev Issue First  
**Blank Notice Stationery**  
 Blank Computer Stationery. This stationery is being reissued to show the reorder point. CO:O:SP Tax Related Public Use

4906 2 PT (C) 42099P  
 07/71 Use/Issue Prev Issue First  
**Blank Notice Stationery**  
 This is two-part blank stationery. CO:O:SP Tax Related Public Use

4907 (C) 23515A  
 11/90 Destroy Prev Issues Upon Rec  
**TDA/Taxpayer Delinquent Account**  
 Form 4907 is issued by Service Center field offices as an account collection record; & used as a primary collection document on IDRS. CO:O:2:FP Internal Use



BMF only?



Department of the Treasury  
Internal Revenue Service  
CINCINNATI, OH 45999

00 199612  
Notice Number: CP 504  
Notice Date: 11-18-1999

Please send  
the Non-Master Caller ID: 4895  
File and 23c that had to be  
created before this could be issued

ATF only



[Redacted]

I do not live in a federal district  
I am not a territorial citizen

You are hereby notified that this letter must be filed as a permanent part of my IRS/TDA/IMS/IMF 23C record. If such record(s) have/have been deleted or substituted, this demand still applies.

**Urgent!!**  
We intend to levy on certain assets. Please respond NOW.  
(To avoid additional late payment penalty and interest, pay your overdue liability now.)

Our records indicate that you have not paid the amount you owe. The law requires that you pay your tax at the time you file your return. This is your notice, as required by Internal Revenue Code Section 6331(d), of our intent to levy (take) any state tax refunds that you may be entitled to if we don't receive your payment in full. In addition, we will begin to search for other assets we may levy. We can also file a Notice of Federal Tax Lien, if we haven't already done so. **To prevent collection action, please pay the current balance now.** If you've already paid, can't pay, or have arranged for an installment agreement, it is important that you call us immediately at the telephone number shown below.

Date: I am not a U.S. citizen

You are hereby notified on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/IMS/IMF 23C record. If such record(s) have/have been deleted or substituted, this demand still applies.

Account Summary

Form: 1040A	Tax Period: 12-31-1996
Current Balance:	\$5,584.59
Includes:	
Penalty:	\$0.00
Interest:	\$11.86
Last Payment:	\$0.00

I do not owe this  
only can be charged to a BMF not a IMF

Questions? Call us at 1-800-829-8815

See enclosed Publication 594 that explains your rights and responsibilities as a taxpayer

Please mail this part with your payment, payable to United States Treasury

Notice Number CP 504  
Notice Date: 11-18-1999

I am not a U.S. citizen

write on your check:  
1040A 12-31-1996 [Redacted]

Amount Due:  
\$5,584.59

US 30 0 9612 670 00000

Internal Revenue Service  
CINCINNATI, OH 45999

I do not owe this  
I am not a federal citizen

PO BOX [Redacted]

FREEDOM OF INFORMATION ACT REQUEST

TO:  
Department of the Treasury  
Internal Revenue Service  
FOIA Disclosure Officer

FROM:

Account #: \_\_\_\_\_

Dear Ms. Reno:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. I am attesting under penalty of perjury that I am a category E requester. PLEASE EXPEDITE THIS REQUEST.
4. This is request pertains to the years: \_\_\_\_\_
5. Please send me a copy of the AMDISA File, which pertains to me.

Dated:

Respectfully,

\_\_\_\_\_  
Requester

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND AFFIRMED:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

did appear and acknowledged the making and signing of this document.

\_\_\_\_\_  
Notary Date

My commission expires on \_\_\_\_\_

Notices copies of this letter have been sent to the following agencies and representative:

Director, Office of Disclosure  
Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

Assistant Commissioner (International)  
950 L'Enfant Plaza SW  
Fourth Floor  
Washington DC 20024

Privacy Act Request  
Bureau of Alcohol, Tobacco, and Firearms  
Room 8290  
650 Massachusetts Ave, NW  
Washington DC 20226

AAT: Disclosure Officer Room 810  
Internal Revenue Service Foreign Operations District FOD: 3  
PO Box 384  
Washington DC 20044

Freedom of Information and Privacy Act Unit, Tax Division  
US Department of Justice  
ATTN: Ms Ruby McCoy  
PO Box 227, Ben Franklin Sta.  
Washington DC 20044

①  
AMDISA  
PRIMARY-NAME>  
ASED>04/EE/96K  
SOURCE-CD>24 REFUSAL TO FILE TDI

②  
MFT>30 TX-PRD>9212

NM-CTRL>  
JULIAN-DT>  
CPNG-CRIN/TRANSFR-DT>01/2  
EXAM-START-CYC>97/03

DIE-REASON-CODE>R  
ACTY-CD>533 ③

STATUTE-XTRCTN-IND>1 PARTIAL-AGRMT-IND>0 TC-300-IND>0 ④

DO/SC>31 POD>93  
CURRENT-STATUS-CD/DT 25 PRE 90-DAY 04/28/97 PR-STATUS-CD/DT 51 ESP 04/25  
2931<ORG-CD 0000<PR-ORG-CD  
PROJ-CD>168 RET-NOT-REQ UPDT-CD>E PR-UPDT-C  
PICF-CD>0 ⑤  
XREF-DLN>312773312000  
RET-PSTNG-YR>97  
⑥ AIMS-SER-NUM>31058133

NM-LN-YR>92  
PRIMARY-NM-LN>  
CONTINUATION-OF-PRIMARY-NAME>  
ACT-IND>1 STREET>  
CITY>CINCINNATI

⑦  
Employee #3161014089 Page 001 of 002 >PAGE 002  
IDRS3EX..ASK | VT100 | FDX | 9600 N81 | LOG CLOSED | PRINT OFF |

⑧ MFT Master file Tax Code

CC AM 424 Examination Request Master File

1 Source Code	2 Origin Code	3 ASST	4 Status Code	5 Return for Requirement	6 Over rate-00	7 Primary Code	8 Exempt Reason	9 Plan Code	10 Exam Status	11 Exam Date
214	34311	310	6	X		116	S		01217	E/E
12A Taxpayer's Name (Print)										12B Agency Control or Check Digit
15 Taxpayer's Address										
17 Reason for Request/Request Return										
New Filer Tax Preparer CORE EXAM										
19 Requester Date Organization										
J. J. [Signature] 11/2/96										
22 Record on File										
23 TC 424 Request Date										
24 Followup Action										
25 Operator Code										

Exhibit 400-8 Cont. (1)

Activity Codes  
appears on Form 5546 as Item 20



Send for your  
form 5546 for  
it's equivalent.  
It's probably  
going to say  
that you are  
being taxed for  
doing ONE  
of these  
Privileges!

Form 1040PR  
Form 1040SS

Code	Description	Class
125	Delicat Bus Farm—Under \$10,000	423
126	Bus Farm—Under \$10,000	425
127	Bus Farm—\$10,000 Under \$30,000	427
129	Bus Farm—\$30,000 and Over	431
130	Delicat Bus, Non-Farm—Under \$10,000	433
131	Bus, Non-Farm—Under \$10,000	435
132	Bus Non-Farm—\$10,000 Under \$30,000	437
134	Bus Non-Farm—\$30,000 and Over	439
180	Ordinary Loss, \$25,000 or More	Employer
181	Ordinary Loss, Under \$25,000	464
182	Ordinary Profit, zero or more, but Under \$25,000	465
183	Ordinary Profit, \$25,000 or More	466
184	Corporation Assets	467
185	(Taxable)	468
202	No Balance Sheet	469
204	Under \$50,000	470
206	\$50,000 Under \$100,000	471
208	\$100,000 Under \$250,000	472
210	\$250,000 Under \$500,000	
212	\$500,000 Under \$1,000,000	
214	\$1,000,000 Under \$5,000,000	
216	\$5,000,000 Under \$10,000,000	
218	\$10,000,000 Under \$50,000,000	
220	\$50,000,000 Under \$100,000,000	
222	\$100,000,000 and Over	
224		
203	No Balance Sheet	
205	Under \$50,000	
207	\$50,000 Under \$100,000	
209	\$100,000 Under \$250,000	
211	\$250,000 Under \$500,000	
213	\$500,000 Under \$1,000,000	
215	\$1,000,000 Under \$5,000,000	
217	\$5,000,000 Under \$10,000,000	
219	\$10,000,000 Under \$50,000,000	
221	\$50,000,000 Under \$100,000,000	
223	\$100,000,000 Under \$250,000,000	
225	\$250,000,000 and Over	
243	No Balance Sheet	
245	Under \$50,000	
247	\$50,000 Under \$100,000	
249	\$100,000 Under \$250,000	
251	\$250,000 Under \$500,000	
253	\$500,000 Under \$1,000,000	
255	\$1,000,000 Under \$5,000,000	
257	\$5,000,000 Under \$10,000,000	
259	\$10,000,000 Under \$50,000,000	
261	\$50,000,000 Under \$100,000,000	
263	\$100,000,000 Under \$250,000,000	
265	\$250,000,000 and Over	
287	(Non-Taxable)	
403	Gross Estate	
405	Under \$60,000	
407	\$60,000 Under \$100,000	
409	\$100,000 Under \$150,000	

Code	Description
514	Form 720—Prods. & Comds., Aviation Fuel/Gasoline
522	Form 720—F & S, Telephone Services
525	Form 720—F & S, Transportation by Air
527	Form 720—F & S, Use of International Air Travel Facilities
528	Form 720—F & S, Transportation Property by Air
530	Form 720—F & S, Policies Issued by Foreign Insurers
531	Obligations to Register
532	Form 720—Mfgs. Pistols and Revolvers
533	Form 720—Mfgs. Trucks, Buses, Chassis and Body
534	Form 720—Mfgs. Other Auto Chassis
536	Mfgs. Underground Cables 50 cents
537	Mfgs. Underground Coal Mines 2%
538	Mfgs. Surface Coal Mines 25 cents
539	Mfgs. Surface Coal Mines 2%
540	Form 720—Mfgs. Automobile Gas Guzzler
541	Form 720—Mfgs. Fishing Equipment
544	Form 720—Mfgs. Bows & Arrows
546	Form 720—Mfgs. Firearms
548	Form 720—Mfgs. Truck Parts & Accessories
549	Form 720—Mfgs. Cartridges and Shells
550	Form 720—Prods. and Comds., Quarterly Windfall Profits
551	Alcohol Sold But Not Used As Fuel
552	Prods. and Comds., Annual Windfall Profits
553	Prods. and Comds., Petroleum
554	Prods. and Comds., Chemicals
555	Hazardous Waste
560	Form 720—Prods. and Comds., Sugar
561	Form 720—Prods. and Comds., Diesel & Special Motor Fuel
562	Form 720—Prods. and Comds., Gasoline
563	Form 720—Prods. and Comds., Lubricating Oil
564	Form 720—Prods. and Comds., Fuel—Inland Waterways
566	Form 720—Prods. and Comds., Tires
567	Form 720—Prods. and Comds., Inner Tubes
568	Form 720—Prods. and Comds., Tread

425a

0001388

After reviewing thousands of IRS Individual Master Files (IMF's), we have found many errors! These files, are in fact, YOUR FILES!! Are you surprised?

Do you care if these secret files that the government creates and keeps on you are at least correct? If you wanted to find out, do you even know how to obtain these secret files?

These files are computer encrypted or coded so if you did obtain any of them, would you even know how to decode those files so you could even read them? What would you use to decode them?

We have found that very few people have any idea whatsoever how to decode these files, or even what certain items in the files mean! Nor do they care if the information is correct or not. **ESPECIALLY THOSE WHO WORK WITH THESE FILES!!** They will, however, not hesitate to use these files against you at any time they wish and you will not even know it.

There are only a few court cases that even deal with these secret files. The manual that deal with these files are secreted away and marked, "For official use only", "Not to be made available to the public", "Keep this information in a secure location", and "Restricted use only."

The government will do whatever is necessary to keep these manuals away from you. When this information is entered into a court record the government will have the record sealed for national security reasons. A number of regular people like you are discovering these secret files and how to obtain them. They are going through the process of how to correct those faulty records.

If you wish to learn more about these secret files we suggest you start by ordering a seminar that takes you through an overview of these secret files and how to order these files using, The Freedom of Information Act. You will receive 3 videotapes with 6, 1-hour audiotapes and over 140 pages of paperwork.

Pastor Richard William Standing will be your host through this amazing journey. He is extremely knowledgeable in this area and has traveled across America teaching and lecturing to many groups of people including attorneys and CPA's. You will learn the background information necessary for the understanding of this deception that has been secretly imposed upon the American people without their knowledge or consent. You will be educated about a vast number of secret documents that you can request from the government. You will also be given some examples of these files and what different types of items are contained in those files.

To order IRS Level I Seminar, send \$125 to: **VIP Box 463, Owensville, Ohio 45160**. There is also a follow-up to Level I, simply called IRS Level II, which is available in the same format, for \$150

**SEEING IS BELIEVING. THIS INFORMATION IS INCREDIBLE!**

## WHAT DO “HONORABLE” CAREER-POLITICIANS & NON-LEGALIZED ROBBERS HAVE IN COMMON?

- 1...A non-legalized robber might say: “your money our your life.” This gives you little choice, so you give him what he wants. A career politician will say: “I want to help the little children, so give my tax-collectors (hit-men) your money” (*or I’ll have you put in prison!*)
- 2...Of the two types of robbers, the non-legalized thief is by far the most honorable. For he doesn’t pretend to be robbing you for “your benefit,” “the public good,” or “the little children.” Or hire “official hit men” with your money, to repeatedly rob you of earnings & liberty.
- 3...The non-legalized thief dosen’t trick you into believing his stealing is moral, honorable and needed by renaming his stealing taxation.
- 4...The non-legalized robber is at a severe disadvantage because, unlike career-politicians, he cannot make laws to legalize his crimes to protect himself and his gang members from being imprisoned.
- 5...The non-legalized thief doesn’t try to fool his victims by pretending his gang of robbers is a concerned and caring political party.
- 6...The non-legalized thief never asks that you vote for him, so he can continue to rob your neighbors (*and you*) for “social justice.”
- 7...The non-legalized thief never sends your youth to foreign countries to be sacrificed in wars of other nations.
- 8...The non-legalized thief doesn’t make it “a crime” with a prison sentence for trying to prevent his “hit men” from stealing your earnings.
- 9...The non-legalized thief doesn’t have “the news” denigrate you with slanderous words such as white-supremacists, neo-Nazi, extremist, terrorist, hate monger, racist, armed and dangerous, or right-wing-whacko if you try to expose his lies and crimes.
- 10...The non-legalized thief doesn’t make a hodge-podge of laws to steal your liberty — reducing you to a socialist-slave so he can enjoy a luxuriously career and a multi-million-dollar retirement pension from the earnings of: YOUR LIFE-LONG LABOR!

*Make copies so others can become aware of: “wolves in sheep’s clothing!”*

**(e) Priority of interest and expenses.**

If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

- (1) any interest or carrying charges upon the obligation secured,
- (2) the reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,
- (3) the reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,
- (4) the reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,
- (5) the reasonable costs of insuring payment of the obligation secured, and
- (6) amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321.

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

**(f) Place for filing notice; form.**

(1) **Place for filing.** The notice referred to in subsection (a) shall be filed—

(A) Under state laws.

(i) **Real property.** In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) **Personal property.** In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; or

(B) With clerk of district court. In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) With recorder of deeds of the District of Columbia. In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) **Situs of property subject to lien.** For purposes of paragraphs (1) and (4), property shall be deemed to be situated—

(A) Real property. In the case of real property, at its physical location; or

(B) Personal property. In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) **Form.** The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary or his delegate. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(4) **Indexing required with respect to certain real property.** In the case of real property, if—

(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien.

**(g) Refiling of notice.**

For purposes of this section—

(1) **General rule.** Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) **Place for filing.** A notice of lien refiled during the required refiling period shall be effective only—

(A) if—

(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and

(B) in any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary received written information (in the manner prescribed in regulations issued by the Secretary) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) **Required refiling period.** In the case of any notice of lien, the term "required refiling period," means—

(A) the one-year period ending 30 days after the expiration of 6 years after the date of the assessment of the tax, and

(B) the one-year period ending with the expiration of 6 years after the close of the preceding required refiling period for such notice of lien.

(4) **Transitional rule.** Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

**(h) Definitions.**

For purposes of this section and section 6324—

(1) **Security interest.** The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) **Mechanic's lienor.** The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF FINANCE AND REVENUE



RECORDER OF DEEDS

515 D STREET N  
WASHINGTON, DC 20002

CERTIFICATE ORDER FORM

NOTICE: Only one certificate may be requested on each order form. This office DOES NOT CERTIFY OWNERSHIP OR NAMES AND ADDRESSES OF NOTEHOLDERS. A stamped, pre-addressed envelope must be provided for all mail requests.



ORDERED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
[Print Name]

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Pick-Up  Mail

LAND RECORDS

GENERAL DOCUMENTS

Lot: \_\_\_\_\_ Square: \_\_\_\_\_ Debtor: \_\_\_\_\_  
Address: \_\_\_\_\_

Type of Certificate  
[Check appropriate box]

Type of Certificate  
[Check appropriate box]

- Last deed on record
- Deed(s) of record  
From: \_\_\_\_\_  
To: \_\_\_\_\_
- No outstanding deeds of trust
- Deed(s) of trust/mortgage or record  
From: \_\_\_\_\_  
To: \_\_\_\_\_
- Financing statement(s)
- Lease agreement(s)
- Condominium declaration  
Name: \_\_\_\_\_
- Condominium by-laws  
Name: \_\_\_\_\_
- Other: (Please specify)  
\_\_\_\_\_  
\_\_\_\_\_

- D.C. Tax Lien
- U.S. Tax Lien
- Housing Lien
- Unemployment Compensation Lien
- Hospital Lien
- Recovery Lien
- Mechanic's Lien
- Subcontractor's Lien
- Judgment
- Financing Statement
- Water/Sewer Lien
- Other: (Please specify) *Levy?*

Signature: \_\_\_\_\_

*Please check Lien #*

OFFICE USE ONLY

Certificate received by: \_\_\_\_\_ Date: \_\_\_\_\_

Certificate mailed by: \_\_\_\_\_ Date: \_\_\_\_\_

Researcher: \_\_\_\_\_ Reviewed by: \_\_\_\_\_

White - (Perm. File) Yellow - (Real Prop. Gen. Doc.) Pink - (Adm.) Goldenrod - (Cust.)

*30% PMO only with each request  
#10 SASE with each request*

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF FINANCE AND REVENUE



RECORDER OF DEEDS

515 O STREET N.W.  
WASHINGTON D.C. 20045

CERTIFICATE ORDER FORM

NOTICE: Only one certificate may be requested on each order form. This office DOES NOT CERTIFY OWNERSHIP OR NAMES AND ADDRESSES OF NOTEHOLDERS. A stamped, pre-addressed envelope must be provided for all mail requests.

DATE: \_\_\_\_\_

ORDERED BY: \_\_\_\_\_  
[Print Name]

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Pick-Up  Mail

LAND RECORDS

GENERAL DOCUMENTS

Lot: \_\_\_\_\_ Square: \_\_\_\_\_

Debtor: \_\_\_\_\_

Address: \_\_\_\_\_

Type of Certificate  
[Check appropriate box]

Type of Certificate  
[Check appropriate box]

- Last deed on record
- Deed(s) of record  
From: \_\_\_\_\_  
To: \_\_\_\_\_
- No outstanding deeds of trust
- Deed(s) of trust/mortgage or record  
From: \_\_\_\_\_  
To: \_\_\_\_\_
- Financing statement(s)
- Lease agreement(s)
- Condominium declaration  
Name: \_\_\_\_\_
- Condominium by-laws  
Name: \_\_\_\_\_
- Other: (Please specify)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- D.C. Tax Lien
- U.S. Tax Lien
- Housing Lien
- Unemployment Compensation Lien
- Hospital Lien
- Recovery Lien
- Mechanic's Lien
- Subcontractor's Lien
- Judgment
- Financing Statement
- Water/Sewer Lien
- Other: (Please specify)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

OFFICE USE ONLY

Certificate received by: \_\_\_\_\_ Date: \_\_\_\_\_

Certificate mailed by: \_\_\_\_\_ Date: \_\_\_\_\_

Researcher: \_\_\_\_\_ Reviewed by: \_\_\_\_\_

White - (Perm. File) Yellow - (Real Prop. Gen. Doc.) Pink - (Adm) Goldenrod - (Cust.)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Chief Financial Officer  
Office of Tax and Revenue  
Real Property Tax Administration  
Recorder of Deeds Division**



Reply To: Recorder of Deeds  
515 D St. N.W. #202  
Washington, D.C. 20001

Phone: 202-727-5374  
Fax: 202-727-9629

**CERTIFICATE  
Of  
No U.S. Tax Liens on Record**

**THIS IS TO CERTIFY that as of the 9TH day of December, 1999 there does not appear of record in the Recorder of Deeds Division for the District of Columbia any U.S. Tax Liens against**

**IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the Recorder of Deeds for the District of Columbia to be affixed this the 10th day of January, 2000.**

**Henry M. Terrell  
Recorder of Deeds  
or  
His Designee**

Go to federal court clerk's office and ask for 15<sup>th</sup>

Certificate of Search ←

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---

UNITED STATES DISTRICT COURT

---

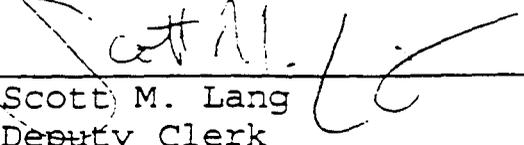
I, KENNETH J. MURPHY, CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, DO HEREBY CERTIFY THAT AFTER A DILIGENT SEARCH OF THE RECORDS IN THIS OFFICE, I FIND NO PENDING CRIMINAL OR CIVIL ACTIONS, OTHER CLOSED CRIMINAL OR CIVIL ACTIONS, UNSATISFIED JUDGMENTS, OR OTHER UNDISCHARGED LIENS UPON REAL ESTATE AGAINST THE FOLLOWING NAMED PERSON, FROM THE FIRST DAY OF JANUARY 1962 UP TO AND INCLUDING THE 14TH DAY OF DECEMBER, 1999, NAMELY,

Witness my official signature and seal of said court, at Cincinnati, Ohio in said district at 9:50 a.m., this 14th day of December, 1999.



KENNETH J. MURPHY, CLERK

By

  
Scott M. Lang  
Deputy Clerk

Send 20<sup>00</sup> to VIP for your complete copy

Chapter 3000 General  
30(52)0 BMF Operations

I R Man  
30(52)0

**30(52)1** (1-1-94)  
**Introduction**

**30(52)1.1** (1-1-94)  
**Purpose**

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

**30(52)1.2** (1-1-94)  
**Scope**

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

**30(52)1.3** (1-1-94)  
**Related Text**

Law Enforcement Manual 3(27)(68)0, ADP System Codes, contains definitions, listings, and descriptions of all codes used on BMF source documents and outputs, including transaction, status, condition, and unpostable codes.

**30(52)2** (1-1-94)  
**General Information**

**30(52)2.1** (1-1-94)  
**Definitions**

(1) **BMF**—a file in Taxpayer Identification Number (TIN) sequence, maintained on magnetic tape, of business taxpayers, individual taxpayers filing returns other than Form 1040, exempt organizations and any entity required by law and regulations to have a federal identification number.

(2) **Business Taxpayer**—one conducting a business enterprise of which the operations or products are subject to federal taxation.

(3) **Exempt Organization**—one exempt from Federal taxes that qualifies for one or more of the purposes specifically designated in the IR Code.

(4) **Individual Taxpayers**—a Social Security Number (SSN) account for taxpayers filing Forms 706, Estate Tax Return and 709, Gift Tax Return.

(5) **Any Entity required by law and regulations to have a federal identification number**—Employer Identification Numbers (EIN) assigned to taxpayers when an individual's SSN cannot be used as a federal identification number. All EINs assigned by the service are placed on the BMF, the number can be assigned to individuals, corporations, pension/profit sharing/retirement plans, exempt organizations, partnerships, trusts, estates and state/local/federal government agencies.

(6) **Type of Tax**—Any tax assessed on a specific tax return filed by the taxpayer. Examples of Type of Tax: excise taxes filed on Form 720, employment taxes filed on Form 941, 942, 943, 940 and CT-1, corporate taxes filed on Form 1120 series, trust taxes filed on Form 1041 series.

FREEDOM OF INFORMATION ACT REQUEST

Disclosure Officer  
Internal Revenue Service

YOUR NAME  
YOUR ADDRESS

(your local office)

Federal Identification #: \_\_\_\_\_

Dear Officer:

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

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

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

This request pertains to the years: \_\_\_\_\_

1. Please send Requester a copy of all documents maintained in the system of records identified as Business Master File (BMF) *specific and not literal*; Data Service, Treasury/IRS 24.046, which pertain to this Requester.

Dated:

Respectfully,

\_\_\_\_\_  
Requester

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

\_\_\_\_\_  
, Requester

COUNTY OF \_\_\_\_\_ >

STATE OF \_\_\_\_\_ >

SUBSCRIBED AND AFFIRMED:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

.08 *Color Code for DLN***Exhibit Z**

DLN list year can be determined by the color of the DLN as follows:

Color	DLN List Year	Example
Blue	4 or 9	1964 or 1979
Green	5 or 0	1965 or 1980
Purple	6 or 1	1986 or 1981
Red	7 or 2	1987 or 1982
Black	3 or 8	1988 or 1983

.09 *Returns Processing Adjustment Blocking Series*

Service center processing of taxpayer accounts for adjustment purposes must use the following blocking series to indicate the nature of the adjustment. The return must be associated with the subsequently generated ICFS transaction record unless the blocking series is specified as non-refile DLN.

IMF	Description
000-099	Adjustments with Original Return, unless specified below.
100-149	Reserved.
150-198	Tax adjustments made without the original return, including penalty, interest and/or freeze releases. Non-refile DLN. When using this Blocking Series, no unpostable checks are made for prior Examination or mathematical/clerical errors because the original return has not been secured. Be careful when adjusting accounts using this Blocking Series.
199	Expired balance write-offs (TC 534/535) Non-refile DLN.
200-289	Forms 1040X processed by Returns Analysis Branch.
290-299	FORM 1040X Disaster Claims
300-399	Reserved <b>SEE NEXT Pg. - USING IN IMF FOR EXCISE TAX</b>
400-479	Form 4136 claim with Form 843. Non-refile DLN. Preassessment refund only.
480-489	Form 6249 claim with Form 843 Non-refile DLN. Preassessment refund only
490-499	Form 4136 Gasohol claim with Form 843 Non-refile DLN. Preassessment refund only.
500-519	URP (Timely, full paid) Adjustments (CP-2000)
520-529	Adjustments to Civil Penalty Modules (MFT 55 and no CP 55)
530-539	Adjustments to Civil Penalty Modules (MFT 55 and no CP 55)
540-549	SFR Assessments (1st Notice)
550-589	URP (Other than timely, full paid) adjustments (CP-2000)
590-599	W-4 Civil Penalty Adjustments
600-619	URP (Timely, full paid) adjustments (Statutory Notices)
640-649	SFR Assessments (Statutory Notice)
650-679	URP (Other than timely) adjustments (Statutory Notice)

Tax class 2, 3, 4, 5

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OFFICIAL USE ONLY

**EXHIBIT Z-1**

Tax Class. 6

BMF
199

200-299

300-399
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400-479

480-489

490-499

500-509

510-519

520-529

530-539

550-559

600-609

620-629

630-639

700-739

740-769

770-789

790-799

800-849

850-859

860-869

870-879

880-889

890-899

900-909

910-919

920-929

930-949

950-959

960-969

970-979

980-989

**Description**

Expired balance write-offs. (TC 534/535). Non-refile DLN.

Forms 1120X processed in Returns Analysis.

U.S.-U.K. Tax Treaty Claims. Non-refile DLN. *USED IN IMF-PREV*

Form 4136 claim with Form 843. Preassessment refund only—non-refile.

Form 6249 Claim with Form 843. Non-refile DLN. Preassessment refund only.

Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.

Non-zero Certification, FUTA. Non-refile DLN.

Zero Certification, FUTA. Non-refile DLN.

Civil Penalty—No CP 155 generated—refile DLN. MFT 13.

Civil Penalty—no CP 155 generated—refile DLN. MFT 13.

CAWR related adjustments (See IFM 30(153)0—CAWR Reconciliation). Non-refile DLN.

Overstated Deposit Claimed. Non-refile DLN after cycle 8335.

Category B. Examination Criteria. Refile DLN.

Category B. Examination Criteria. Non-refile DLN.

Substantiated Math Error with TC 420 in the module. Refile DLN.

Unsubstantiated Math Error Protest. Refile DLN.

Adjustment to set math error deferred action on module. Refile DLN.

Reserved.

Offers in Compromise except for Forms 11\*, 11-C, 706, 709, 730, 2290 and 4638\*.

Offers in Compromise Forms 2290 and 4638\* only.

Offers in Compromise Forms 706 and 709 only.

Offers in Compromise Forms 11\* and 11B\* only.

Offers in Compromise Form 11-C only.

Offers in Compromise Form 730 only.

Tentative Carryback Adjustments without original return. (CP 155 generated).

Carryback adjustments below tolerance without original return—No CP 155 generated. Non-refile DLN.

Tentative Carryback Adjustment with original return. (No CP 155 generated.) Also use whenever a TCB adjustment requires a manual reinstatement from the Retention Register.

FICA/FUTA Adjustments based on Free Meals/Lodging (Rowan court case). Non-refile DLN.

Carryback reassessments for statute imminent years. CC Claim Reassessments processed with TC 298 for expired statute years.

Penalty Appeals Indicator Set. Non-refile DLN.

Penalty Appeals Indicator Released. Non-refile DLN.

Complete claim Disallowance without original return (generates CP 155).

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...means, procedures and investigation of  
prosecution in the requested country.

(42)280 (8-18-88)

### Executive Agreements

(1) The U.S. has entered into an executive agreement with the United Kingdom, representing the Cayman Islands, concerning "Assistance From the Cayman Islands in Matters Involving Narcotics Activity [Agreement]." The Agreement provides the exclusive means by which the U.S. may obtain from the Cayman Islands documentary evidence and foundation testimony necessary to permit such evidence to be admitted in a United States criminal trial involving narcotics activity. The Agreement does not cover requests by the Cayman Islands to the United States. Although the scope of the Agreement is limited to narcotics activity, the Agreement is broad enough to cover ancillary civil or administrative proceedings "connected with, arising from, relating to, or resulting from" narcotics activity. Thus, in cases where narcotics activity appears to be present, evidence can be obtained by the U.S. from the Cayman Islands under the Agreement and used in connection with civil and/or criminal tax cases.

(2) The U.S. has been very successful in obtaining information from the Cayman Islands under the Agreement. In many cases information sought has been obtained within thirty days of the request.

(3) To obtain information pursuant to the Agreement, the United States Attorney General is required to submit a certificate requesting assistance to the Cayman Islands Attorney General. The certificate must do four things:

(a) state that the matter for which assistance is being requested falls within the scope of the Agreement.

(42)270

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CCO Manual

(b) the names of the subjects, the investigated or prosecuted, and a description of the documents sought Cayman Islands;

(b) a more detailed statement the subjects and describing the connection between the subjects and narcotics a

(c) a brief description of the offense investigated or prosecuted;

(d) the identity of the "assistant" of the documents and a detailed description of the documents to be produced;

(e) a brief statement explaining the connection between the offenses being investigated or prosecuted and the documents requested;

(f) specific instructions with reference to the form of the documents and foundation testimony required; and

(g) time deadlines.

(5) A sample of the form requesting of a certificate by the U.S. Attorney General set forth in Exhibit (42)200-10. This form to be completed by attorneys and forwarded to Branch 1 of the Associate Chief Counsel (Legal and International) for processing.

(8) Attorneys should note that the statement of facts which provides an adequate basis for the U.S. Attorney General to issue a certificate of request to the Cayman Islands in connection with the narcotics activity of a particular taxpayer often may be used in civil tax litigation involving such taxpayer's receipt of unreported income from such activity. In *Walmer Commissioner's*, 598 F.2d 358 (9th Cir. 1977), the Ninth Circuit held that, in redetermining an income tax due by the Service on the basis of the tax alleged unreported income from heroin

Exercise (NY)

US-UK TAX TREATY This is in our Exhibit Package Book 30<sup>00</sup> from VIP, BOX 463, Owensville, Ohio p. 45160

(e) setting up a fraudulent apparatus, such as an offshore corporation, to "skim" unreported income, etc.

(4) All requests must show "fraudulent conduct" in the criminal tax fraud aspects of the investigation. Administrative investigation requests will be processed pursuant to IRM 9265.8:(6). Requests will be forwarded by OP:CI:INV to the Foreign Operations District and a copy of the transmittal will be sent to Department of Justice. Grand Jury investigation requests will be routed directly through the U.S. Attorney's office to the Department of Justice. Requests should consist of seven essential elements to insure the Swiss authorities will act favorably:

(a) the facts of the investigation and what the facts are based on;

(b) violations of U.S. law and how these violations deprive the United States Government of revenue;

(c) how these acts would violate Swiss law if committed for the purpose of Swiss Fiscal Fraud;

(d) exactly what information we want and why we want them to furnish it;

(e) the reasons we believe evidence is in Switzerland and what we believe the information will prove;

(f) the persons involved, their roles in the tax fraud scheme, our intentions towards prosecuting them; and,

(g) procedures we want the Swiss to use in order to ensure admissible evidence in a possible criminal prosecution.

(5) Requests should be submitted in a consistent format:

(a) The introductory paragraph;

(b) The statement of facts;

(c) The explanation of the violations;

(d) The description of the assistance requested;

(e) The need for the assistance requested;

(f) The list of persons involved; and,

(g) The description of procedures to be followed.

(6) Requests should be limited to only information, evidence and testimony absolutely essential in proving the violations. Requests should not include information or documents which theoretically may be available and interesting but are not absolutely necessary to prove the case. Sample copies of fraudulent

documents, if available, should be sent with the request.

(7) Swiss authorities are likely to advise the taxpayer/client, etc., of the request and its content. It is also possible that the written request itself may be furnished to the taxpayer/client. In addition, a taxpayer has the right to appeal the proposed release of any Swiss information.

9265.(11) (2-11-85)

#### U.S.—Canada Simultaneous Criminal Investigation Program

Exhibit 9260-1 contains guidelines and procedures for the United States—Canada Simultaneous Criminal Investigation Program.

9265.(12) (7-25-86)

#### United States—United Kingdom Agreement for Cayman Islands Narcotics Assistance

(1) The United States—United Kingdom Agreement for Cayman Islands Narcotics Assistance became effective on August 29, 1984, and established guidelines and procedures for securing any sort of documentary information located in the Cayman Islands including, but not limited to, bank and business records as well as official government records for use in United States investigations and proceedings connected with illegal narcotics trafficking.

(2) This agreement applies to "all offences or ancillary civil or administrative proceedings taken by the United States Government or its agencies connected with, arising from, related to, or resulting from any narcotics activity referred to in Article 36 of the \*\*\* [Single Convention on Narcotics Drugs, 1961, as amended by the 1961 Protocol] and falling within the jurisdiction of the United States." The matter need not specifically involve narcotics charges so long as the investigation or case is simply "connected with, arising from, related to, or resulting from any narcotics activity." For example, a criminal tax case involving the net worth theory of proof could very well qualify for assistance under the agreement if the "likely source" of income of the target (or defendant) is narcotics trafficking.

(3) This agreement is not restricted to matters that result in a criminal recommendation. Information could be requested under the agreement for records necessary to make jeopardy assessments.

9265.(10)

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(4) Any information obtained under the agreement in a grand jury investigation should be treated in accordance with IRM 9267.1 et seq.

(5) In an administrative case (civil or criminal), the information obtained would be available for civil purposes.

(6) Under this agreement records will be obtained from the Cayman Islands via a Certificate as follows:

(a) The United States Attorney General will issue to the Attorney General of the Cayman Islands a "certificate" stating that specified records located in the Cayman Islands are relevant to a narcotics related case or investigation in the United States (Exhibit 9260-2).

(b) The certificate will not contain any information about the case other than the docket, grand jury or case number.

(c) If the case is a Criminal Investigation administrative case, the Attorney General's Certificate procedure is preremission assistance and does not constitute a referral as described in IRC 7602(c).

(d) The certificate must contain a description of the documentary information sought. The certificate should contain the name of the specific Cayman Bank, business or other entity where the documents are located, and if known, the account number or other identifying information. For both grand jury and administrative cases, and in any follow-up consultations with the Department of Justice, the requesting agent must provide the Department of Justice with sufficient information regarding the investigation or the case to enable the Attorney General to determine whether a certificate under the agreement should be issued. Any such information which might be considered "return information" or "taxpayer return information" under IRC 6103 may be so disclosed under the exceptions provided in IRC 6103(k)(4) or IRC 6103(k)(6) or both.

(e) Upon receipt of a Certificate the Cayman Attorney General will issue to the custodian of the documentary information a notice requiring the custodian to produce to the Cayman Attorney General the documentary information requested in the custodian's possession, custody or control within 14 days of the date of the said notice unless that period is extended for good cause with the concurrence of the United States Attorney General or is shortened with the concurrence of the Cayman Attorney General. If the custodian of the documents refuses to produce the documentary information, he will

be liable to a substantial fine and imprisonment, and the Cayman Government will seize the documentary information. The Cayman Government must see that authentication and foundation testimony, necessary for the admission of the documentary information, be provided by the custodian or other appropriate individual. This testimony can take the form of affidavit, deposition in the Cayman Islands, or voluntary appearance by the appropriate witness in the United States.

(7) The United States has agreed that these procedures will be the exclusive means (i.e., in lieu of compulsory process) used to obtain documentary information from the Cayman Islands in narcotics related investigations and cases. Therefore, until further notice, no summonses for documents located in the Cayman Islands in narcotics related cases should be issued to banks or businesses in the United States. Any summonses outstanding will not be enforced without the express prior approval of the Department of Justice. This does not apply to summonses seeking substantive witness testimony from Cayman residents found in the United States or to those seeking Cayman records in cases or investigations which are unrelated to drug trafficking.

(8) Summonses may be issued to institutions in this country for records located in the Cayman Islands on non-narcotics related cases as well as for records not located in the Cayman Islands in narcotics related cases. See text 367.5 of IRM 9781, Handbook for Special Agents.

(9) The Department of Justice will carefully follow the progress of all requests under the agreement and monitor the effectiveness of the agreement in meeting the United States' investigative needs. To this end, it is essential that each initiator who utilizes the agreement coordinate closely all requests with the Assistant Commissioner (Criminal Investigation) OP:CI:INV:S.

(10) During grand jury investigations, the following procedures will be used to request that a certificate be issued to obtain records under the terms of this agreement:

(a) The investigating special agent will prepare a request letter addressed to the Office of International Affairs, Criminal Division, Department of Justice, signed by the appropriate United States Attorney, Strike Force Chief, or head of a Presidential Drug Task Force. Copies of the

letter will be sent to the Assistant Commissioner (Criminal Investigation), Attention: OP:CI:INV:S and also to the Assistant Regional Commissioner (Criminal Investigation) if requested.

(b) Upon compliance by the Cayman government, the records requested and Attestation of Authenticity of Official Records (Exhibit 9260-2 Cont. (1)), and/or Affidavit with Respect to Documents of a Regularly Conducted Business Activity (Exhibit 9260-2 Cont. (2)), will be forwarded to the Department of Justice. These will subsequently be forwarded to the requesting field attorney.

(c) The Chief should notify, by memorandum, the Assistant Commissioner (Criminal Investigation), Attention: OP:CI:INV:S, when the records are obtained. The memorandum should also state whether or not the records are complete.

(11) During an administrative investigation, the following procedures will be used to request that a certificate be issued to obtain records under the terms of this agreement:

(a) The investigating special agent will prepare a request letter addressed to the Tax Division, Criminal Section, Department of Justice, and signed by the District Director. Copies of the letter will be sent to the Assistant Commissioner (Criminal Investigation), Attention: OP:CI:INV:S, and also to the Assistant Regional Commissioner (CI) if requested.

(b) The Tax Division, Criminal Section, Department of Justice, after approval, will forward the letter and certificate to the Director, Office of International Affairs, Criminal Division, Department of Justice.

(c) Upon receipt of the records, a memorandum should be sent to the Assistant Commissioner (Criminal Investigation), Attention: OP:CI:INV:S, signed by the District Director, and stating whether or not the requested records are complete.

9266 (9-17-80)

#### Assisting United States Attorneys

(1) Special agents are authorized to assist the United States Attorney in preparing for indictment and/or trial and in conducting additional investigation of Title 26, U.S.C. and Title 18 U.S.C. (those committed in contravention of the internal revenue laws, see IRM 9213) cases which have originated in the Criminal Investiga-

tion Division and have been processed by Regional Counsel and the Tax Division of the Department of Justice, or which have been authorized for direct referral by the Chief to the United States Attorney. For the above Title 26 and Title 18 cases, a United States Attorney or Strike Force Attorney may request special agents to assist in an investigation by, or a presentation to, a Federal grand jury (see policy statement P-9-16).

(2) Request for information and assistance by a United States Attorney, except as provided for above, shall be handled in accordance with IRM 9267.1 and 9267.2.

(3) The duties, responsibilities and deportment of special agents when making appearances in court are set forth in 737.72 of IRM 9781, Handbook for Special Agents.

9267 (11-16-78)

#### Assisting Grand Juries

9267.1 (12-10-84)

##### General

(1) Federal Rule of Criminal Procedure 6(e), (hereafter cited as Rule 6(e)) governs the secrecy and disclosure of grand jury information. The Rule was amended by Congress (Public Law 95-78) with an effective date of October 1, 1977.

(2) Rule 6(e) as amended states in pertinent part:

“(e) Secrecy of Proceedings and Disclosure—

“(1) General Rule.—A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the Government, or any person to whom disclosure is made under paragraph (2)(A)(iii) of this subdivision shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. No obligation of secrecy may be imposed on any person except in accordance with this rule. A knowing violation of rule 6 may be punished as a contempt of court.

“(2) Exceptions.—

“(A) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury, other than its deliberations and the vote of any grand juror, may be made to—

“(i) an attorney for the government for use in the performance of such attorney's duty; and

9265.(12)

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the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal, equitable, or maritime grounds. All statements shall be made subject to the obligations set forth in Rule 11.

(f) **Construction of Pleadings.** All pleadings shall be so construed as to do substantial justice. (As amended Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987.)

**NOTES OF ADVISORY COMMITTEE ON RULES  
1937 ADOPTION**

**Note to Subdivision (a).** See former Equity Rules 25 (Bill of Complaint—Contents), and 30 (Answer—Contents—Counterclaim). Compare 2 Ind.Stat. Ann. (Burns, 1933) §§ 2-1004, 2-1015; 2 Ohio Gen.Code Ann. (Page, 1926) §§ 11305, 11314; Utah Rev.Stat. Ann. (1933) §§ 104-7-2, 104-9-1.

See Rule 19(c) for the requirement of a statement in a claim for relief of the names of persons who ought to be parties and the reason for their omission.

See Rule 23(b) for particular requirements as to the complaint in a secondary action by shareholders.

**Note to Subdivision (b).** 1. This rule supersedes the methods of pleading prescribed in U.S.C., Title 19, § 508 (Persons making seizures pleading general issue and proving special matter); U.S.C. Title 35, former § 40d (Proving under general issue, upon notice, that a statement in application for an extended patent is not true), § 282, formerly § 69 (Pleading and proof in actions for infringement) and similar statutes.

2. This rule is, in part, former Equity Rule 30 (Answer—Contents—Counterclaim), with the matter on denials largely from the Connecticut practice. See Conn. Practice Book (1934) §§ 107, 108, and 122; Conn.Gen.Stat. (1930) §§ 5508-5514. Compare the English practice, English Rules Under the Judicature Act (The Annual Practice, 1937) O. 19, r. r. 17-20.

**Note to Subdivision (c).** This follows substantially English Rules Under the Judicature Act (The Annual Practice, 1937) O. 19, r. 15 and N.Y.C.P.A. (1937) § 242, with "surprise" omitted in this rule.

**Note to Subdivision (d).** The first sentence is similar to former Equity Rule 30 (Answer—Contents—Counterclaim). For the second sentence see former Equity Rule 30 (Reply—When Required—When Cause at Issue). This is similar to English Rules Under the Judicature Act (The Annual Practice, 1937) O. 19, r. r. 13, 18; and to the practice of the States.

**Note to Subdivision (e).** This rule is an elaboration on former Equity Rule 30 (Answer—Contents—Counterclaim), plus a statement of the actual practice under the codes. Compare also former Equity Rule 18 (Pleadings—Technical Forms Abrogated). See Clark, Code Pleading (1928), pp. 171-4, 432-5; Hankin, Alternative and Hypothetical Pleading (1924), 33 Yale L.J. 365.

**Note to Subdivision (f).** A provision of like import is frequent occurrence in the codes. Smith-Hurd Ill. Stats. ch. 110, § 157(3); 2 Minn.Stat. (Mason, 1927) § 9266;

N.Y.C.P.A. (1937) § 275; 2 N.D.Comp.Laws Ann. (1913) § 7458.

**1966 AMENDMENT**

The change here is consistent with the broad purposes of unification.

**1987 AMENDMENT**

The amendments are technical. No substantive change is intended.

**Rule 9. Pleading Special Matters**

(a) **Capacity.** It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, except to the extent required to show the jurisdiction of the court. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) **Fraud, Mistake, Condition of the Mind.** In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) **Conditions Precedent.** In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) **Official Document or Act.** In pleading an official document or official act it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) **Judgment.** In pleading a judgment or decision of a domestic or foreign court, judicial or quasijudicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) **Time and Place.** For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) **Special Damage.** When items of special damage are claimed, they shall be specifically stated.

in suits brought under the Civil Rights Act of 1871, it has been applied to actions under the 1866 Civil Rights Act as well as to cases under Title VII of the Civil Rights Act of 1964.<sup>3</sup> Liberal amendment under FRCP 15(a) will normally be allowed in order for a plaintiff to meet the requirements of the Third Circuit rule.<sup>4</sup>

Some cases indicate that similar requirements of specificity in pleading a civil rights complaint may be applied in other courts as well.<sup>5</sup>

On the other hand, the Tenth Circuit has specifically rejected the proposition that a complaint filed under the Civil Rights Act of 1964 requires the pleading of facts in greater detail than is generally required by FRCP 8(a).<sup>6</sup> And the Second Circuit has held that the mere fact that some of the allegations in a civil rights complaint are lacking in detail is not a proper ground for dismissal of the action.<sup>7</sup>

No civil rights complaint sufficiently states a claim which simply identifies a number of defendants and alleges that their actions were performed under the color of their various offices and authority but sets forth no actions in which it is claimed they participated.<sup>8</sup>

#### § 62:46. Fraud or mistake

FRCP 9(b), requiring particularity in the averment of circumstances constituting fraud or mistake, must be harmonized with FRCP 8(a) and FRCP 8(e) requiring, respectively, that a pleading contain a short and general statement of the claim and that it be plain and direct.<sup>9</sup> There is an obvious tension

#### § 62:46

#### PLEADINGS AND MOTIONS

between the two rules,<sup>10</sup> since the provisions of FRCP 8 do not obviate the FRCP 9(b) requirement of particularity.<sup>11</sup> However, a plaintiff who alleges fraud is not required to plead his evidence.<sup>12</sup> The FRCP 9(b) requirement does not entail an exhaustive cataloging of facts but only sufficient factual specificity to provide assurance that the plaintiff has investigated the alleged fraud and reasonably believes that a wrong has occurred.<sup>13</sup> A complaint complies with FRCP 9(b) where it puts the defendant on notice as to the specifics of fraud of which the plaintiffs complain.<sup>14</sup>

#### § 62:47. Contracts

A complaint in an action on a contract which alleges the contract, performance by the plaintiff, and failure to perform on the part of the defendant, is good as against a motion to dismiss for insufficiency.<sup>15</sup> However, an action brought on a contract which violates public policy may be dismissed for failure to state a claim on which relief may be granted under FRCP 12(b)(6).<sup>16</sup>

There is authority that the defendant is entitled to know whether the contract sued upon was oral or written.<sup>17</sup> If the contract was written, the plaintiff has the option of quoting it verbatim, attaching it as an exhibit, or pleading it according to its legal effect.<sup>18</sup> Under FRCP 10(c), attachment to the complaint of the contract sued upon is permissive and not mandatory, and a failure to attach the contract is not a ground for dismissal.<sup>19</sup> The terms of a contract made part of a complaint prevail over the allegations of the complaint.<sup>20</sup>

Pleading in an action on a contract is affected by the provision of FRCP 9(c) that in pleading the performance or occurrence of conditions precedent it is sufficient to aver generally that all conditions precedent have been performed

10. *Alvord v Shearson Havden Stone, Inc.* (1980, DC Conn) 485 F Supp 348, CCH Fed Secur L Rep ¶97339.

11. *Helfant v Louisiana & Southern Life Ins. Co.* (1978, ED NY) 26 Fed Rules Serv 2d 228.

12. *Schlick v Penn.—Dixie Cement Corp.* (1974, CA2 NY) 507 F2d 374, CCH Fed Secur

Corp. (1939, DC NY) 27 F Supp 537, 41 USPQ 469.

3rd Circuit—*Sierocinski v E. I. Du Pont De Nemours & Co.* (1939, CA3 Pa) 103 F2d 843.

5th Circuit—*Foley-Carter Ins. Co. v Commonwealth Life Ins. Co.* (1942, CA5 Fla) 128 F2d 718 (complaint in a suit for commissions

REFUSED FOR FRAUD  
F.R.C.P. 9(b)

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

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

EXHIBIT

Exhibit \_\_\_\_\_

EXH. V-3

## Section 9. Notices and Notice Codes

### .01 General

Computer generated notices and letters of inquiry are mailed to taxpayers in connection with tax returns for BMF, IMF, and IRAF. Computer paragraph (CP) numbers (3-digit number for BMF AND IRAF, 2-digit number for IMF) are located in the upper left corner of the notices and letters.

Spanish Settlement Notices and Taxpayers Letters are issued to describe monetary transactions and request information on Form 1040PR, 941PR or 943PR tax module. These notices have been translated into Spanish from English. To find the English counterpart of a Spanish notice, subtract 700 from the computer paragraph number. These notices are printed at Philadelphia Service Center for Virgin Islands and Puerto Rico filers only.

The following pages which list CP numbers in ascending sequence should serve as a convenient source of reference to assist you in answering questions about ADP notices and letters. (Reference IRM 37(60)0 - BMF; 37(163)0-IMF)

### .02 IMF Notices

A CAF indicator is printed on IMF taxpayer notices when this indicator is posted to a taxpayer's account. The Service Center has instructions for preparing photocopies of these notices for mailing to the taxpayer's agent.

The following computer notices are sent to taxpayers in connection with IMF returns, or are used internally.

CP No.	EXPLANATION
04	Issued to inform taxpayer that the portion of ES penalty attributable to wages was waived (1987 only).
05	Issued to remind taxpayer of requirement for SSN for dependents claimed as exemptions.
10	Issued as a first notice to inform a taxpayer that there was an error in computation of his/her individual income tax return and there is an overpayment of [ ] or more. Also informs the taxpayer of the amount of credits actually applied to his/her next taxable period, if the taxpayer requested amount and the credited amount differ by [ ] or more. (Combines CP 12 and CP 45)
11/12	Issued as a first notice to inform a taxpayer that there was an error in computation on his/her individual income tax return and:
13	CP 11—Balance Due [ ] CP 12—Overpayment of [ ] or more CP 13—Even Balance.
14	Issued as a first notice to inform a taxpayer of a balance due when there is no math error.
15	Issued to inform the taxpayer that a Civil Penalty has been assessed.
16	Issued as a first notice to inform the taxpayer that: 1) There was an error in computation on his/her Individual Income Tax Return, and, 2) There is an overpayment of [ ] or more, and, 3) Part of that overpayment was used to offset another Individual Tax Liability.

6209 IRM

OFFICIAL USE ONLY

Whose Department of Treasury?  
Which Internal Revenue Service

Department of the Treasury  
Internal Revenue Service  
ATLANTA, GA 39901

220700  
\*\* IF YOU HAVE ANY QUESTIONS, \*\*  
\*\* REFER TO THIS INFORMATION: \*\*  
NUMBER OF THIS NOTICE: CP-518 F  
DATE OF THIS NOTICE: 03-10-97  
TAXPAYER IDENT. NUM: 583-28-9130  
TAX FORM: 1040 9711  
TAX PERIOD: 12-31-95



3 digit CP numbers are for BMF only

\*\*\* FILING FEDERAL TAX RETURNS \*\*\*  
As a current or retired federal employee, you are obligated to file and pay your federal taxes as imposed by law.

YOUR TAX RETURN IS OVERDUE - CONTACT US IMMEDIATELY

Our records show that you still haven't filed the following tax return.

Form number: 1040 Tax period ENDING: 12-31-95  
Title: US INDIVIDUAL INCOME TAX RETURN  
*Has the wrong OMB number*  
*Please provide proof that I am a U.S. citizen or required to file as a U.S. Citizen*

Please contact us immediately, or we may have to take the following actions:

- 1. Summon you to bring us your books and records.
- 2. Begin criminal proceedings which may include a fine, imprisonment, or both if you willfully fail to file a tax return.

-what kind of summons? will it have a valid OMB #

To prevent these actions, file your tax return today, and attach our payment for any tax due. Even if you can't pay the entire amount, it is important that you file your return. Pay as large an amount as you can, and tell us when you can pay the rest. We may be able to arrange for you to pay in installments.

If you aren't required to file or have previously filed, please contact us at 354-1760 LOCAL JACKSONVILLE  
1-800-829-1040 OTHER FL

\*\*\*\*\*  
\*\*\* FILING FEDERAL TAX RETURNS \*\*\*  
As a current or retired federal employee, you are obligated to file and pay your federal taxes as imposed by law.  
\*\*\*\*\*



ATF only

which only

P 904 456



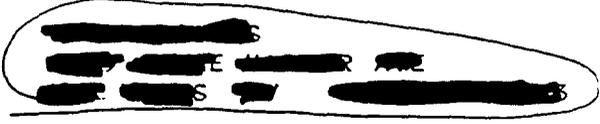
Department of the Treasury  
Internal Revenue Service  
OGDEN, UT 84201

which  
JRS

003387 199312  
Notice Number: CP 504  
Notice Date: 04-27-1998  
SSN/EIN: [REDACTED]  
Caller ID: 349785

BMF only

1974  
pension  
act



No assessment  
No penalty and  
any thing

### Final Notice !!

We intend to levy. Please respond NOW.

(To avoid additional penalty and interest, pay your overdue tax in full today.)

As a current or retired federal employee, you must pay your federal taxes as required by law. Our records indicate you have not paid your overdue tax. The law requires that you pay your tax at the time you file your return. This is a formal notice of our intent to levy (take) your paycheck, bank account, auto or other property if we do not receive your payment in full. We can also file a Notice of Federal Tax Lien, if we have not already done so. **PLEASE PAY YOUR TAX TODAY.**

6231  
ATF

### Account Summary

Form: 1040	Tax Period: 12-31-1993
Current Balance:	\$2,076.42
Includes:	
Penalty:	\$0.01
Interest:	\$113.49
Last Payment:	\$0.00

There is  
a way to  
mark this to show  
fraud

Questions? Call us at 1-800-829-8815

See enclosed Publication 594 that explains your rights and responsibilities as a taxpayer.

Please mail this part with your payment, payable to Internal Revenue Service.

Notice Number: CP 504  
Notice Date: 04-27-1998

write on your check:

1040 12-31-1993 [REDACTED]

Amount Due:  
\$2,076.42

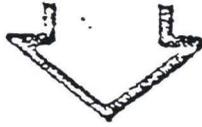
[REDACTED] 30 0 9312 670 0000020 [REDACTED]

Internal Revenue Service  
OGDEN, UT 84201

[REDACTED]

For more information order "Test your knowledge" 006 No. 225, 177  
can prosecute a subtitle A Income Tax Case.

VIA, Box 46J, Owensville, Ohio, 4:  
\$ 20<sup>00</sup>



6-4.248

TITLE 6—TAX DIVISION

CHAP. 4

tion of the criminal case, the case can be timely closed and returned to the IRS for the collection of any revenue due through civil disposition.

#### 6-4.249 Return of Reports and Exhibits

Upon completion of a criminal tax prosecution by a final judgment and the conclusion of appellate procedures, the U.S. Attorney should return to witnesses their exhibits. Grand jury materials should be retained by the U.S. Attorney under secure conditions, in accordance with the requirements of maintaining the secrecy of grand jury material. See Fed.R.Cr.P. 6(e). All non-grand jury reports, exhibits, and other materials furnished by the IRS for use in the investigation or trial should be returned by certified mail, return receipt requested, to the appropriate District Director, IRS, Attention: Chief, CID, as directed in the Tax Division's letter authorizing prosecution or as directed by Regional Counsel in cases directly referred to the U.S. Attorney.

#### \* 6-4.270 Criminal Division Responsibility

The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-operated gambling and amusement machines; malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws; and unauthorized mutilation, removal or misuse of stamps. See 28 C.F.R. § 0.70. *Phillips*

#### 6-4.300 TAX DIVISION POLICIES REGARDING CASE DISPOSITION AND SENTENCING

##### 6-4.310 Major Count(s) Policy/Plea Agreements

The overwhelming percentage of all criminal tax cases are disposed of by entry of a plea of guilty. In most cases, the transmittal letter forwarding the case from the Tax Division to the U.S. Attorney will identify the major count(s) that have been authorized for prosecution. The U.S. Attorney's Office, without prior approval of the Tax Division, is authorized to accept a plea of guilty to the major count(s) of the indictment or information.

The U.S. Attorney also is authorized to seek a plea to more than the major count(s) if it is considered warranted. As part of the major count policy, the timeliness of a plea offer should also be considered in assessing the value of the plea solely to the major count(s). This comports with standard DOJ policy regarding prompt disposition of cases. See *Principles of Federal Prosecution* on JURIS.

The designation of the major count is generally premised on the following considerations:

October 1, 1990.

18

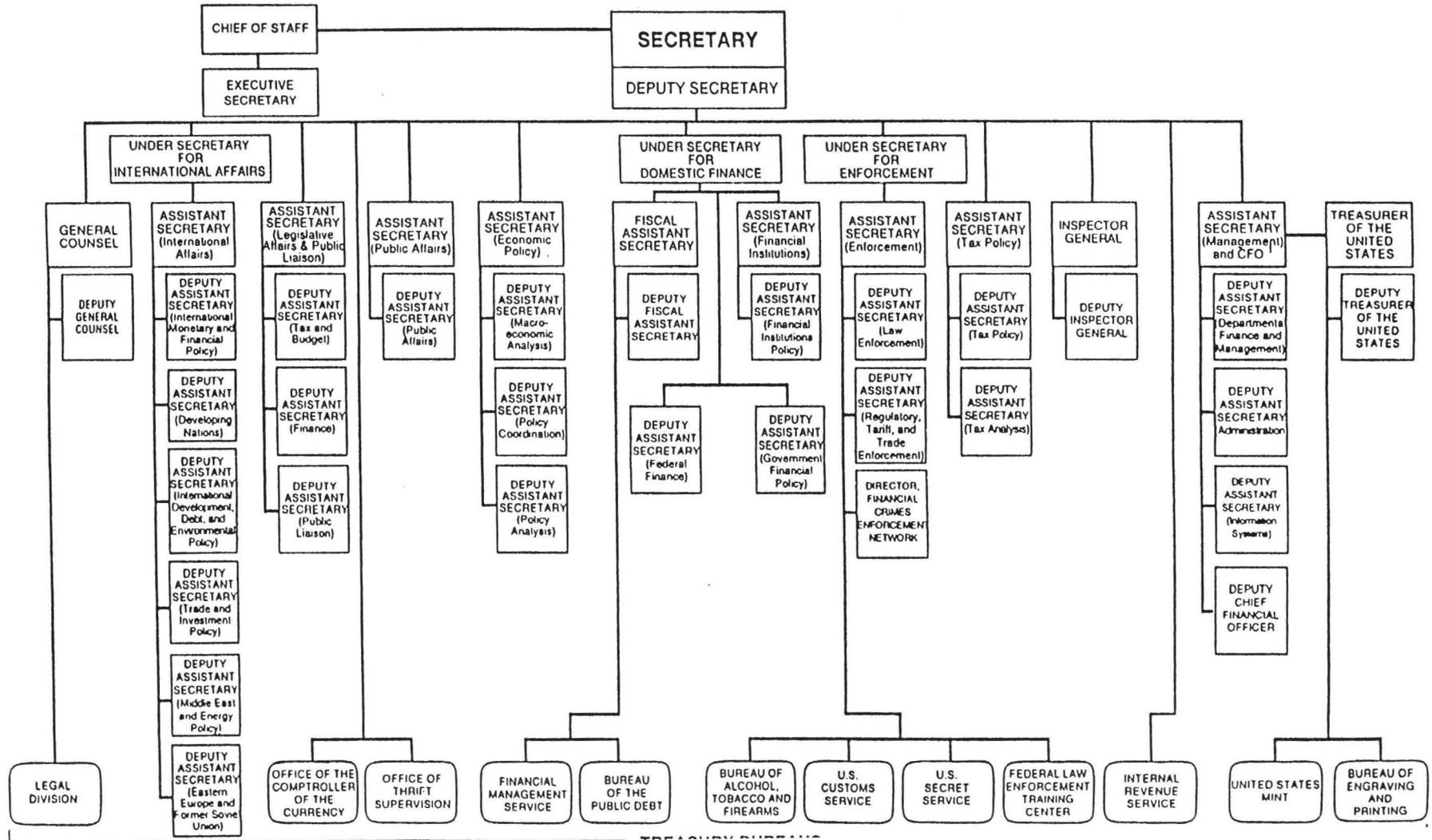
FR  
index book

Title 26	Description	Location of Enforcement Regulation
6202	Returns prepared for or executed by Secretary	27 CFR Parts 53, 70
6201	Assessment authority	27 CFR Part 70
6203	Method of assessment	27 CFR Part 70
6212	Notice of deficiency	No Regulation
6213	Restrictions applicable to; deficiencies, petition to Tax Court	No Regulation
6214	Determinations by Tax Court	No Regulation
6215	Assessment of deficiency found by Tax Court	No Regulation
6301	Collection authority	27 CFR Parts 24, 25, 53, 250, 270, 271
6303	Notice and demand for tax	27 CFR Parts 53, 70
6321	Lien for taxes	27 CFR Part 70
6331	Levy and distraint	27 CFR Part 70
6332	Surrender of property subject to levy	27 CFR Part 70
6420	Gasoline used on farms	No Regulation
6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 CFR Part 70, 170, 194, 296
6651	Failure to file tax return or to pay tax	27 CFR Parts 24, 25, 70, 194
6671	Rules for application of assessable penalties	27 CFR Part 70
6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 CFR Part 70
6701	Penalties for adding and abetting understatement of tax liability	27 CFR Part 70
6861	Jeopardy assessments of income, estate, and gift taxes	No Regulation
6902	Provisions of special application to transferees	No Regulation
7201	Attempt to evade or defeat tax	No Regulation
7203	Willful failure to file return, supply information, or pay tax	No Regulation
7206	Fraud and false statements	No Regulation
7207	Fraudulent returns, statements and other documents	27 CFR Part 70
7210	Failure to obey summons	No Regulation
7212	Attempts to interfere with administration of internal revenue laws	27 CFR Parts 170, 270, 275, 290, 295, 296
7342	Penalty for refusal to permit entry, or examination	27 CFR Parts 24, 25, 170, 270, 275, 290, 295, 296
7343	Definition of term "person"	No Regulation
7344	Extended application of penalties relating to officers of Treasury Department	No Regulation
7401	Authorization (judicial proceedings)	27 CFR Part 70
7402	Jurisdiction of district courts	No Regulation
7403	Action to enforce lien or to subject property to payment of tax	27 CFR Part 70
7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulation
7601	Canvass of districts for taxable persons and objects	27 CFR Part 70
7602	Examination of books and witnesses	27 CFR Parts 70, 170, 296
7603	Service of summons	27 CFR Part 70
7604	Enforcement of summons	27 CFR Part 70
7605	Time and place of examination	27 CFR Part 70
7608	Authority of internal revenue enforcement officers	27 CFR Parts 70, 170, 296

*The IRS Does not have any Enforcement Powers*

*The United States Govt. Manual  
1998/99*

**DEPARTMENT OF THE TREASURY**



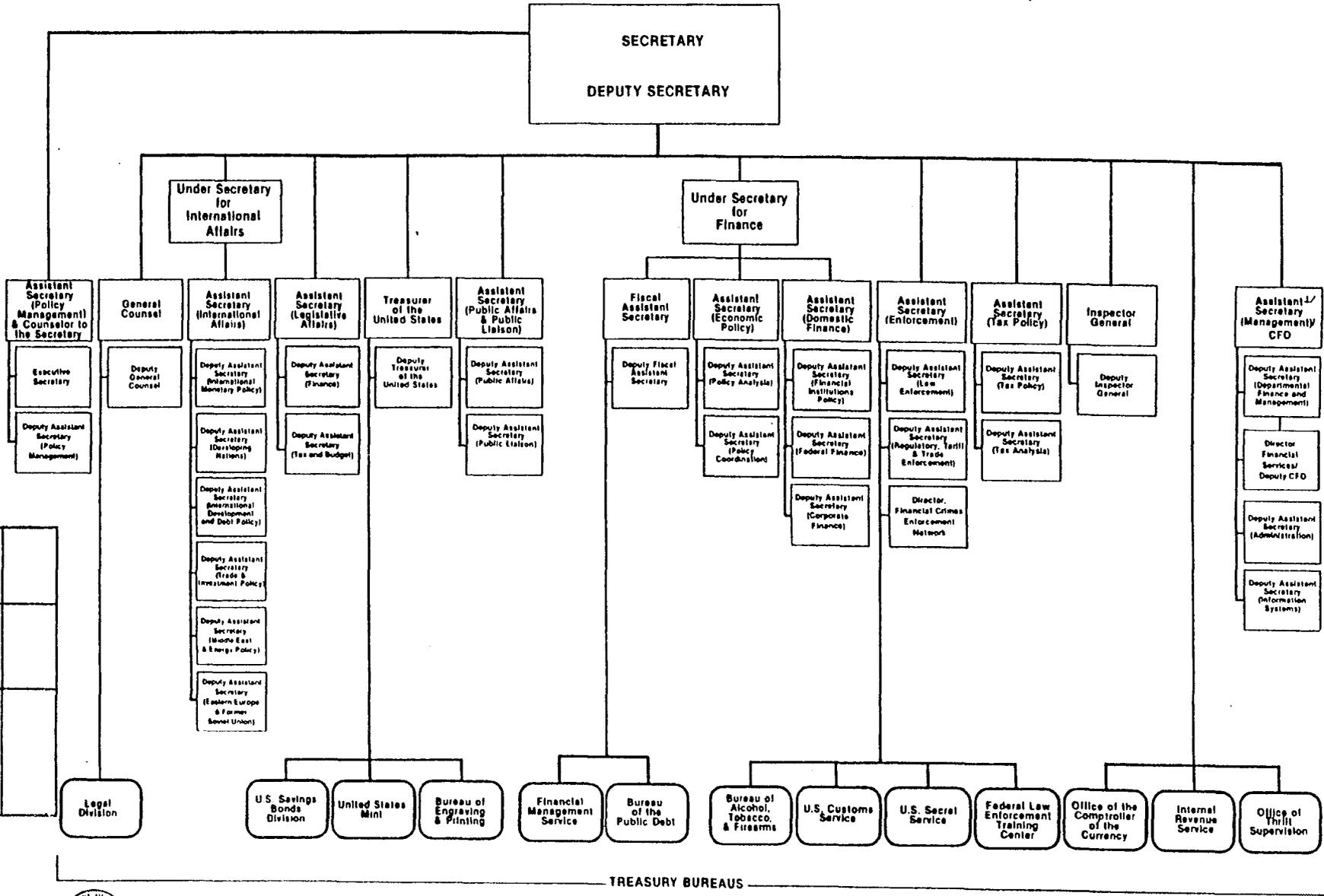
# THE DEPARTMENT OF THE TREASURY

TO 101-05  
07-02-92

166

EXHIBIT	Of	
	Page	

Attachment



↳ Assistant Secretary (Management) Is the Chief Financial Officer (CFO).

## TEST YOUR KNOWLEDGE 006

1. On or about December 18, 1975, the tax division of the Dept. of Justice made available a manual entitled "Manual for Criminal Tax Trials." (yes or no)
2. According to the "Manual for Criminal Tax Trials," responsibility for the prosecution of criminal tax cases was expressly delegated to the Dept. of Justice. (yes or no)
3. Section 5, Executive Order 6166 June 19, 1933, pursuant to Section 16, Act of March 3, 1933, 45 Stat. 1517 from the "Manual for Criminal Tax Trials" is stated as the alleged authority to prosecute a tax case. (yes or no)
4. A Tax Division was created after June 19, 1933 inside the Dept. of Justice. (yes or no)
5. The policy was immediately placed in effect to require the specific authorization of the Justice Dept. before prosecutive action could be undertaken and is more fully explained in the United States Attorney's Manual Title 4:3-4. (yes or no)
6. Now then would you really like to know how, where and when the Dept. of Justice got the "expressly delegated authority" and "specific authorization" to criminally prosecute sub title A tax cases? (yes or no)
7. Vol. 9 of the CCH Standard Federal Tax Reports, 1988 code Sec 7804, is entitled, "Organization and Procedure of the Internal Revenue Service." (yes or no)
8. Sec 5975.05 from the "Organization and Procedure of the Internal Revenue Service" says that "E.O. 6166, issued June 10, 1933, pursuant to authority granted by the Act of June 30, 1932 c314, 47 Stat. 383, 413, as amended by the Act of March 3, 1933, C. 212, 47 Stat. 1489, 1517 is the Dept. of Justice's authority to prosecute tax cases." (yes or no)
9. It is clearly evident that the manual written and distributed by the Dept. of Justice has an incorrect cite. They cite 45 Stat. 1517 and the one cited in CCH is 47 Stat. 1489. (yes or no)
10. Was this purposely done and is it definitely deceitful and misleading? (yes or no)
11. 45 Stat. 1517 pertains to two Acts. The 1st is a compact between New Mexico and Arizona and the 2nd is a compact between Colorado, Oklahoma and Kansas, each dealing with water rights. (yes or no)
12. The so called correct statute cited in CCH refers to 47 Stat. 383 (which should read 382) 413, C. 314 72nd Congress which took effect on June 30, 1932. (yes or no)
13. The CCH statute is about making appropriations for the Executive branch of government for the fiscal year end June 30, 1933 and for other purposes. 47 Stat. 382 (HR 11267). (Public Law No. 212) (yes or no)
14. This 1933 Act was passed during the reign of FDR, who was one of the most calculating presidents in the history of America. (yes or no)
15. Title IV of the 1933 Act provided for appropriations "for the Executive Branch of government" and "for all other purposes," allegedly was the beginning of the "expressly delegated" and "vested" authority by the Dept. of Justice to "conduct and control all federal tax litigation." HOW VERY DIABOLICAL! (yes or no)
16. In Title IV of the 1933 Act the Dept. of Treasury and the Dept. of Justice were excluded from this Act pursuant to Title 5, Sec. 2. If so, could it not be presumed that the IRS would also be excluded since they are supposedly a part of the Dept. of Treasury? (yes or no)
17. The 1933 Act, Sec. 16 amended "Title IV" of the 1932 Act by reorganizing certain Executive departments of the government due to the fact Congress had declared that a "serious emergency" existed because of the "general economic depression" which was created by the Bankers themselves. (yes or no)
18. The E.O. 6166 is just one more of the psychological warfare methods that have been and are still being perpetuated by "the powers that be" in order to cover-up the on-going deceit, fraud and the ongoing war that the feds and other international organization have been waging against the Citizens of the 50 United States. (yes or no)
19. Is there any thing in these Acts or "titles" that "expressly delegated" or "vested" any authority to the Dept. of Justice to criminally prosecute sub title A for tax cases? (yes or no)
20. On March 9, 1933, congress enacted the infamous banking act due to "emergency" conditions which was derived from the "trading with the enemy" Act of Oct. 6, 1917, and currently amended by 12 USC 95a. These "war and emergency power" acts have made the people enemies to the "United States Government" These acts have almost completely suspended the Constitution. (yes or no)

For a research packet covering this information with proof that a U.S. Attorney has no authority to prosecute a Sub-title A Income Tax Case send 20.00 to VIP, Box 463, Owensville, Ohio (p.z 45160).

## REORGANIZATION OF EXECUTIVE AGENCIES

Executive Orders Pursuant to Act of March 3, 1933, c. 212, Title IV—Reorganization of Executive Departments (47 Stat. 1517) (U. S. C., Title 5, §§ 124-132)

### EXECUTIVE ORDER No. 6166

(U. S. C., 1934 ed., Title 5, page 47)

#### SECTION 3—INVESTIGATIONS

All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.

All functions now exercised by the Bureau of Prohibition with respect to investigations and all the functions now performed by the Bureau of Investigation of the Department of Justice are transferred to and consolidated in a Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation.

All other functions now performed by the Bureau of Prohibition are transferred to such divisions in the Department of Justice as in the judgment of the Attorney General may be desirable.

#### SECTION 4—DISBURSEMENT

The function of disbursement of moneys of the United States exercised by any agency is transferred to the Treasury Department and, together with the Office of Disbursing Clerk of that Department, is consolidated in a Division of Disbursement, at the head of which shall be a Chief Disbursing Officer.

The Division of Disbursement of the Treasury Department is authorized to establish local offices, or to delegate the exercise of its functions locally to officers or employees of other agencies, according as the interests of efficiency and economy may require.

The Division of Disbursement shall disburse moneys only upon the certification of persons by law duly authorized to incur obligations upon behalf of the United States. The function of accountability for improper certification shall be transferred to such persons, and no disbursing officer shall be held accountable therefor.

#### SECTION 5—CLAIMS BY OR AGAINST THE UNITED STATES

The functions of prosecuting in the courts of the United States claims and demands by, and offenses against, the Government of the United States and of defending claims and demands against the Government, and of supervising the work of United States attorneys, marshals, and clerks in connection therewith, now exercised by any agency or officer, are transferred to the Department of Justice.

As to any case referred to the Department of Justice for prosecution or defense in the courts, the function of decision whether and in what manner to prosecute, or to defend, or to compromise, or to appeal, or to abandon prosecution or defense, now exercised by any agency or officer, is transferred to the Department of Justice.

For the exercise of such of his functions as are not transferred to the Department of Justice by the foregoing two paragraphs, the Solicitor of the Treasury is transferred from the Department of Justice to the Treasury Department.

Nothing in this section shall be construed to affect the function of any agency or officer with respect to cases at any stage prior to reference to the Department of Justice for prosecution or defense.

#### SECTION 6—INTERNAL REVENUE

The Bureaus of Internal Revenue and of Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue. (Promulgated June 10, 1933.)

Send \$300 for this packet of information  
to VIP, Box 463, Owensville, Ohio  
4/5/60

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## UNITED STATES BANKRUPTCY COURT

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### DEBTOR'S RESPONSE TO UNITED STATES OF AMERICA, INTERNAL REVENUE SERVICE, PROPOSED FINDINGS OF FACT AND CONCLUSION OF LAW

#### PROPOSED ULTIMATE FINDINGS OF FACT

1. Debtor is a Citizen not required to file returns for the years 199 , 199 , 199 and 199 .
2. Debtor has not been served the lawful mandated determination that is required to file a federal income tax return.
3. The Bureau of Alcohol, Tobacco and Firearms administers and enforces Chapters 61 through and including 80 of the Internal Revenue Code, and not the alleged Internal Revenue Service.
4. The National Prohibition Act is classified to 26 USC §§ 1 et seq.
5. Debtors have not been lawfully assessed a tax, penalties or interest.
6. Debtors are not taxpayers as defined by law.
7. Debtors are not self-employed as defined by law.
8. Debtors did not receive income as defined by law.
9. Revenue Agent Greenwell is a Revenue Agent for the Commonwealth Internal Revenue of the Department of the Treasury of Puerto Rico.
10. There are no implied laws.
11. Form 1040 is not subject to civil or criminal failure to file penalties.
12. Debtors are not subject to failure to file penalties.
13. Debtors do not owe a tax, penalties or interest.

IT IS SO ADJUDGED, DECREED, AND ORDERED THIS \_\_\_\_\_ day of \_\_\_\_\_, 1997.

BASIL H. JUDGE  
UNITED STATES BANKRUPTCY COURT

FORM 1099-S

paragraph, 4745, return of brokers. -see 1099-A

paragraph, 4747, extension of time. -see 1099-A

paragraph, 4752, blank forms. -see 1099-A

paragraph, 4753, reproduction/forms -see 1099-A

Are you engaged in any of the activity, filing, deductions, or business's described herein?? I believe most people are not.

THE END.

-REQUEST-

DO NOT SEND A 1099 FROM THAT IS NOT APPLICABLE TO ME!

Subsequent complete review, the codes explicitly stated that I/we, should NOT RECEIVE ANY 1099 FORM(s), per I R S code title 26. Only those explicitly stated and/or defined should receive ANY 1099 form. If anyone refuses to cease and desist, and comply with the request set forth within this document, those person(s), may inflict possible damage or injury. Please check out the codes and rules to inform yourself that I/we am not within the definition of "person", nor performing activities so noted that would produce the need for ANY 1099.

It is very important to remember that the POINT of a 1099 form is, a deduction form for a "person", or business that is performing certain duties or engaged in, - interest, stocks, bonds, certain retirement funds, etc.

Do the 1099 forms have anything to do with you???

In a nut shell, there has been none of the relationships, or business transactions, from you to me, that need to be present to establish a need for a 1099 form, PURSUANT to Title 26 USC. There has been no profit or gains as defined within the codes, relevant to any 1099 form(s). Therefore sending a 1099 Form to me would be erroneous, - please check it out.

LISTED, ALL 1099 FORMS:

1099  
1099-A  
1099-B  
1099-DIV  
1099-G  
1099-MISC  
1099-OLD  
1099-PATR  
1099-R  
1099-S

For a complete research  
Packet on 1099's send  
25<sup>00</sup> to VIP, Box 463,  
Owensville, Ohio, 45160  
"Ask for "1099's A to Z"  
To whom do they apply?"

Send 30<sup>cc</sup> to U I P, Bot 463  
Owensville, Ohio  
45160  
Ask for # 224

Civil 1994-138-577 #224

United States District Court  
Orinn Arnold, clerk  
5500 Veterans Drive, Suite 310  
Charlotte Amalie  
St. Thomas, Virgin Islands 00802-6424

#224

To the clerk of the United States District Court,

This statement is in response to the enclosed 90 day NOTICE OF DEFICIENCY (EXHIBIT A), to which I subsequently requested and was granted a 60 day extension. This is my statement of facts, denials, admissions, assertions and conclusions, but is not necessarily my only or final such statement.

I declare under penalty of perjury of the laws of the United States of America that the attached exhibits are true and accurate copies of the original document(s).

#### FACTS:

- 1) The "Internal Revenue Service" is not an organization of the Department of the Treasury as evidenced by 31 U.S.C., Chapter 3, a copy of which is attached hereto and incorporated herein as EXHIBIT B.
- 2) All "enforcement" authority of Title 26 is vested in the Secretary of the Treasury (26 U.S.C. 7801). Enforcement, collection, assessment and other procedures are published between Chapters 61 and 80 of 26 U.S.C.
- 3) Chapters 61 to 80, inclusive, of Title 26 are delegated to the Bureau of Alcohol, Tobacco and Firearms, as evidenced by TO 120-01, a copy of which is attached hereto and incorporated herein as EXHIBIT C.
- 4) The term "Commissioner of Internal Revenue" is the identical person and office as the Director, Alcohol, Tobacco and Firearms Division, as evidenced by TO 120-01, paragraph 2, i., EXHIBIT C.
- 5) The Director, Alcohol, Tobacco and Firearms Division, aka, Commissioner of Internal Revenue is delegated (EXHIBIT C) the authority to administer the following laws:
  - a) 26 U.S.C. 51, 52 and 53, and Section 7652 and 7653 pertaining to Puerto Rican rum and shipments from the United States to Puerto Rico and the Virgin Islands;
  - b) Chapters 61 to 80, inclusive, of 26 U.S.C.;
  - c) 27 U.S.C., Chapter 8, the Federal Alcohol Administration Act;
  - d) 18 U.S.C., Chapter 44, relating to firearms;
  - e) 18 U.S.C. Appendix, sect. 1201-1203;
  - f) 18 U.S.C. 1262-1265; 1952; 3615 (relating to liquor traffic);
  - g) 49 U.S.C., Chapter 11, relating to the National Firearms Act;
  - h) 18 U.S.C., Chapter 40, (relating to explosives);
  - i) 22 U.S.C. 1934, Mutual Security Act of 1954, relating to the control of the importation of arms, ammunition and implements of war.
- 6) That the instant NOTICE OF DEFICIENCY is a Letter Number 531, which originates from the Assistant Commissioner (Examination) and/or Assistant Commissioner (International), as

→ Special Demand for A Specific Bill of Particulars: Includes 2 cassette Tapes 128 pgs  
You do this before you ever enter a plea to any charge. Includes one to the IRS with an order from a Judge for the prostitute to answer.  
Send \$60.00 to VIP, BOX 463, Owensville, Ohio, 45160  
Includes a 20pg Barber Note which you can conform to your state.

- Page 6 -

Hartmann Report  
Continued:

- Page 5 -

Pre-Plea Procedure 101

[Note: The following illustration will be over the heads of your average and above average Juris Doctor (i.e. lawyer), but your average and below average Patriot and some very advanced masters of legal letters (e.g. law professors) should be able to follow along.]

The court is a boxing arena and the trial is a boxing match.  
The prosecutor is the Champion, and you are the Challenger.  
You are: old, fat, slow, weak, arthritic, stupid, uncoordinated, lame, and blind in one eye.

The Champion is: young, slim, quick, strong, healthy, smart, coordinated, aggressive, agile, and very mean.

The judge is the Referee. The Referee is the father of the Champion and has wagered heavily on the Champ.

The "rules" say that the Challenger is not allowed to wear a mouth guard or protective cup. Additionally the Challenger is not allowed to have a "trainer" (counsel) in his corner because his trainer is not recognized by the boxing commission (i.e. not a member of the bar).

The Referee will not notice when the Champion hits below the belt or when he snaps your head between the ropes and starts kicking you in the ribs. The Referee will however, cry foul when you raise your glove and take a swing at the Champ.

The weigh-in is the arraignment, and the only question you have of the Referee is "Can I smoke during the match", and the Referee says "Lighten if ya got 'em".

The ringside bell has the word TRAVERSE written on it.  
You could wait for the bell, stagger around and swing wild. You

READ

Hartmann Report  
Continued:

might luck out and accidentally connect with the Champ's glass jaw; but don't count on it.

\* \* \* \* \* THERE IS A BETTER WAY \* \* \* \* \*

You simply "take care of things" in the dressing room (e.g. the prosecutor's office or the clerk's office).

While the Champ is sitting in his chair, lacing up his jack boots (slipping on his "Tassel Loafers") and filling his gloves with steel ball bearings, you sneak up from behind with a big iron pipe. Your pipe has Special Demand for Specific Bill of Particulars written on it.

You slam the pipe down, with all your strength, on top of the Champ's head. That's your motion to quash. Next, you slam the pipe on the right side of his head. That's your plea in abatement. Then, you slam the pipe on the left side of his head. That's your demurrer. Finally, you slam your pipe across the Champ's mouth. That's your plea in Bar.

Having now served its purpose, you drop your pipe and head for the arena; that's the court room. You fearlessly climb into the ring; that's entering the bar. At this point you light up a "Lucky" and take a deep puff and wait for the Champion.

Eventually the Champ staggers in, but he doesn't look as menacing as he did before. His head is all swollen, black and blue and bleeding, and he doesn't have any teeth and he can't talk. He doesn't remember how to fight; in fact, he doesn't even remember his name or why he's even here.

Continued:

READ

Hartmann Report  
Continued:

- Page 7 -

The Referee asks you what you want to do; and you say, "I think the Champ wants to forfeit the match."

The Referee looks at the Champ and says "Is this true?" The Champ gives the Referee a toothless grin, drools a little, and collapses on the canvas.

The Referee looks at you again and says, "What do you want to do?" and you respond, "Declare me the winner by default!"

The Referee says, "You win" and nobody ever rings the traverse bell.

That's how a Special Demand for a Specific Bill of Particulars, followed by the appropriate dilatory pleas and pleas in bar/peremptory pleas, work in either a legislative tribunal or a judicial branch court. It's quick, cruel, bloody and effective. It'll work for Jay walking, traffic tickets, carrying a concealed weapon, possession of a controlled substance, feeding an expired parking meter, aggravated murder or in any other case whatsoever.

\* \* \* \* \*

I believe at this point we can leave the Champ on the canvas and move on to the list of questions found at the conclusion to Part 1 of this Report:

1) "What exactly is a Specific Bill of Particulars?"  
A Specific Bill of Particulars is a list of answers supplied by the prosecutor to the questions posed in the Accused's Demand for a Specific Bill of Particulars, the purpose being to more fully inform the Accused of the exact nature and cause continued of the alleged accusation.

READ

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When they file charges

Hartmann Report Conclusion:

# DEMAND FOR A SPECIFIC BILL OF PARTICULARS INCLUDE

Coming in the next exciting Hartmann Report, the answers to:

- 1) What exactly is a Specific Bill of Particulars? ✓
- 2) What should be included in a Demand for Bill of Particulars? ✓
- 3) What form should a request for a Bill of Particulars be in? ✓
- 4) What can't be asked for in a Demand for Bill of Particulars? ✓
- 5) If you write a poor quality request, will you blow your case? ✓
- 6) Who should the request for Bill of Particulars be served on, and how? ✓
- 7) Is a Demand for Bill of Particulars a motion that grants jurisdiction? ✓
- 8) What do you do if, after a proper Demand, you don't get one? ✓
- 9) What do you do if, after a proper Demand, you do get one? ✓

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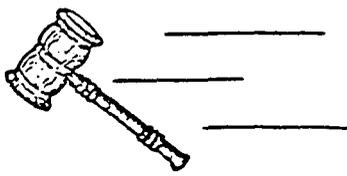


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REPLY TO REVENUE OFFICER

THE FRAUDULENT USE OF

TITLE 26 § 7210

In this case, the agent testified he intended, if appellant had consented to an interview<sup>7</sup> to advise him of his rights. Because the IRS requires only special agents to warn taxpayers of their rights,<sup>8</sup> by assigning a revenue agent the IRS still succeeded in masking the undeniable criminal nature of this investigation and materially deceived this appellant.

[4] We cannot condone this shocking conduct by the IRS. Our revenue system is based upon the good faith of the taxpayers and the taxpayers should be able to expect the same from the government in its enforcement and collection activities.<sup>9</sup>

UNITED STATES of America,  
Plaintiff-Appellee,

v.

Nicholas J. TWEEL, Defendant-Appellant.

No. 76-2324.

United States Court of Appeals,  
Fifth Circuit.

April 7<sup>th</sup>, 1977.

STOP A 7210 Summons only for the  
off road use of Gasoline.

# HANDBOOK FOR SPECIAL AGENTS

CRIMINAL INVESTIGATION  
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MR. MORTIMER CAPLIN  
INTERNAL REVENUE SERVICE  
COMMISSIONER

any manner or at any time to give testimony that may expose him/her to prosecution for a crime. It applies equally whether incrimination be under Federal or state law, and whether the privilege is invoked in the Federal or state courts. [Murphy v. N.Y. Waterfront Commission; see also Malloy v. Hogan.] If a witness has been compelled to testify in a state court under a grant of immunity, as to matters which could incriminate him/her under Federal law, a Federal court cannot later use that testimony or any fruits of it. [Murphy v. N.Y. Waterfront Commission] The grant of immunity applies only to the inability to prosecute the witness based on testimony supplied by him/her. This does not preclude a prosecution of the witness based on the presentation of independent evidence which did not result from his/her own testifying. [Kastigar v. U.S.]

(2) A defendant's refusal to testify at the trial for a Federal offense cannot raise any presumption against him/her or be the subject of comment by the prosecution. The right to refuse to answer incriminating questions applies not only to court trials, but to all kinds of criminal or civil proceedings, including administrative investigations. [George Smith v. U.S.; McCarthy v. Arndstein; Counselman v. Hitchcock; U.S. v. Harold Gross] The fear of self-incrimination may be with respect to any criminal offense. For example, in the case of Internal Revenue Agent v. Sullivan, a taxpayer was upheld in refusing to produce records in a tax matter on the ground that indictment was pending against him for defrauding the Government on certain contracts.

Smith v. U.S.; Beard v. U.S.; Olson v. U.S.; Myres v. U.S.]

(2) The privilege against self-incrimination does not permit a taxpayer to refuse to obey a summons issued under IRC 7602 or a court order directing his/her appearance. He/she is required to appear and cannot use the Fifth Amendment as an excuse for failure to do so, although he/she may exercise it in connection with specific questions. [Landy v. U.S.] He/she cannot refuse to bring his/her records, but may decline to submit them for inspection on constitutional grounds. In the Vadner case, the government moved to hold a taxpayer in contempt of court for refusal to obey a court order to produce his/her books and records. He refused to submit them for inspection by the Government, basing his refusal on the Fifth Amendment. The court denied the motion to hold him in contempt, holding that disclosure of his assets would provide a starting point for a tax evasion case.

(3) Where records are required be kept as an aid to enforcement of certain regulatory functions enacted by Congress, such records have been held public records, whose production may be compelled without violating the Fifth Amendment. This reasoning has also been applied in some income tax evasion cases. [Falsone v. U.S.; Beard v. U.S.] Other income tax cases have stated that compulsory production of a taxpayer's books and records for use in a criminal prosecution would violate the constitutional protection against self-incrimination. There has not yet been any Supreme Court decision holding the public records doctrine applicable in income tax cases.

(4) The decision of the Supreme Court in Andresen v. Maryland appears to have resolved conflicting judicial precedents regarding the use of search warrants to seize books and records of financial transactions. In this case the Court held that the search of Andresen's office for business records, their seizure and subsequent introduction into evidence did not offend the Fifth Amendment. Although the seized records contained statements that the accused had committed to writing, he was never required to say anything. The search for and seizure of these records was conducted by law enforcement officers and introduced at trial by prosecution witnesses.

(5) Subject to the restrictions contained in IRM 0735.1, Handbook of Employee Responsibilities and Conduct, books, records, canceled checks, and other documents may be removed from the custody of a principal or witness when he/she voluntarily agrees to such action. When they are obtained by the use of legal process, and it is found that they contain evidence of the crime, it may be desirable to retain custody of such evidence until the case involved is disposed of. Should the witness or defendant desire access to his/her records, he/she is entitled to examine them, but such examination should be made in the presence of the special agent to preclude the possibility of alterations. Where possession of records is not obtained by legal process but is only by sufferance, they should be returned upon request, at the earliest practicable time. (See policy statement P-4-8.) It was held in Mason v. Pulliam, that a taxpayer may withdraw an earlier voluntary consent to a taking of possession by the Service of records for examination and copying, the records being immediately returnable upon the withdrawal of that consent. Thus, the Service is effectively prohibited by this decision from making copies of such records following withdrawal of consent. As a practical matter, consideration should be given to copying the records upon receipt.

(6) Records and documents obtained from the principal or a witness which contain information relevant to the apparent issues in the case under investigation should be transcribed or otherwise copied. The transcriptions or copies should be identified and authenticated as outlined in IRM 9383.4 for later use in the event the originals become unavailable to the government for any reason.

(7) The original records of an individual defendant, in his/her possession, cannot be subpoenaed into court for use against him/her in a criminal trial, because to do so would violate his/her constitutional rights against self-incrimination and render his/her records inadmissible. However, authenticated copies of such records are admissible in criminal proceedings.

(8) When records are obtained from a possible defendant, notation should be made of the circumstances to show that they were furnished voluntarily. Notation should also be made of the chain of custody of records and of all other evidence in order that authenticated identification of the evidence may be made. Special agents are not to sign or initial the records of a possible defendant nor to assure him/

her in any manner whatsoever that his/her tax liability has been correctly reported as of any certain date. They are not to assure him/her that his/her records will be subject to no further examination.

(9) In all instances when a special agent removes books, records, or other documents from the premises of either a taxpayer under investigation or a third party witness, through legal process or agreement, he/she shall issue a receipt, normally Form 2725, Document Receipt (Exhibit 300-12), identifying the items obtained. The receipt shall be prepared in duplicate and the copy retained for the office file of the case so that the identity of the books, records, or documents obtained may at all times be ascertained. When such books, records, or documents are returned to the taxpayer, third party witness or their representatives, the special agent shall obtain the receipt he/she issued with an endorsement thereon acknowledging the return of the items or obtain such an endorsement on the copy of the receipt. The receipt containing his/her endorsement should be kept in the office file on the case. A special agent assigned to assist a grand jury will not use a Form 2725 when securing documents pursuant to a grand jury subpoena, see 9267.3:(7).

(10) When a taxpayer has voluntarily submitted an altered document and subsequently requests its return, the special agent should consider not complying with the request. Furthermore, it is doubtful that a court will give redress where the party seeking relief is attempting to perpetrate a fraud, and is asking the court to aid in the attempt by forcing the Government to return the altered document. Legible copies may not suffice for requisite examination regarding handwriting (pressure on paper), ink analysis (the composition and dating of the fluid and use of an Infrared Image converter), typewriter determination (the idiosyncrasies of certain key strikes), paper analysis (watermarks indicating source and availability), etc. Nonetheless, when it becomes known or suspected that a document has been altered, the required expert analysis should be undertaken as soon as possible and the document should then be returned to the taxpayer, provided such return would not foreclose proof of an alteration (See

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342.12 (1-18-80)  
Books and Records of An Individual

9781

(1) An individual taxpayer may refuse to exhibit his/her books and records for examination on the ground that compelling him/her to do so might violate his/her right against self-incrimination under the Fifth Amendment and constitute an illegal search and seizure under the Fourth Amendment. [Boyd v. U.S.; U.S. v. Vadner] However, in the absence of such claims, it is not error for a court to charge the jury that it may consider the refusal to produce books and records, in determining willfulness. [Louis C.

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1972 Amendments, the promotion can be made effective as of January 1970, when Huntley suffered this discrimination, or only as of some later date.

[5] Finally, the trial court should also address the plaintiff's claim for attorneys' fees, which the Court may allow to the prevailing party, pursuant to 42 U.S.C.A. §§ 2000e-5(k), 2000e-16(d) (1974). Cf. *Bradley v. School Bd. of Richmond*, 416 U.S. 696, 94 S.Ct. 2006, 40 L.Ed.2d 476 (1974).

REVERSED and REMANDED with directions.



UNITED STATES of America,  
Plaintiff-Appellee,

v.

Nicholas J. TWEEL, Defendant-Appellant.

No. 76-2324.

United States Court of Appeals,  
Fifth Circuit.

April 8, 1977.

Defendant was convicted before the United States District Court for the Southern District of Florida, Joe Eaton, J., of conspiring to defraud the United States by obstructing lawful functions of Internal Revenue Service, tax evasion, and making false statements in tax returns, and he appealed. The Court of Appeals, Fay, Circuit Judge, held that failure of Internal Revenue Service agent to apprise defendant of obvious criminal nature of investigation constituted deliberate deception by agent in flagrant disregard of defendant's rights and thus, since consent given by defendant was obtained by deception, microfilming of records given agent constituted unreasonable search and evidence obtained, as well as any evidence derived therefrom, should have been suppressed.

Remanded.

1. Searches and Seizures  $\leftrightarrow$  7(23)

Consent search is unreasonable under the Fourth Amendment if consent was induced by deceit, trickery or misrepresentation of internal revenue agent. U.S.C.A. Const. Amend. 4.

2. Searches and Seizures  $\leftrightarrow$  7(23)

Burden for determining whether internal revenue agent has resorted to deception in obtaining consent for search is on moving party.

3. Searches and Seizures  $\leftrightarrow$  7(23)

Failure of revenue agent, who knew that Internal Revenue Service was acting at request of organized crime and racketeering section of the Justice Department, an instrument for criminal investigation, to apprise defendant of obvious criminal nature of investigation constituted deliberate deception by agent in flagrant disregard of defendant's rights and his statement that no special agent was involved so misled defendant as to vitiate his consent to "search," and thus, since consent was obtained by deception, microfilming of documents provided agent constituted unreasonable search. U.S.C.A. Const. Amend. 4.

4. Internal Revenue  $\leftrightarrow$  1761

Revenue system is based upon good faith of taxpayers and taxpayer should be able to expect same from government in its enforcement and collection activities.

5. Criminal Law  $\leftrightarrow$  394.5(4)

Burden of proving that any evidence was untainted by internal revenue agent's unreasonable search was on the government. U.S.C.A. Const. Amend. 4.

Harold Ungar, Edward Bennett Williams, Washington, D.C., for defendant-appellant.

Robert W. Rust, U. S. Atty., Miami, Fla., Scott P. Crampton, Asst. Atty. Gen., Gilbert E. Andrews, Chief, Appellate Section, Robert E. Lindsay and Charles E. Brookhart, Attys., Tax Div., Dept. of Justice, Washington, D.C., for plaintiff-appellee.

Appeal from the United States District Court for the Southern District of Florida.

Before MORGAN and FAY, Circuit Judges, and HUNTER,\* District Judge.

FAY, Circuit Judge:

Appellant, Nicholas J. Tweel, was convicted of conspiring (with an unindicted co-conspirator, Charles Zemliak) to defraud the United States by obstructing the lawful functions of the Internal Revenue Service (IRS),<sup>1</sup> two counts of tax evasion for 1967 and 1969,<sup>2</sup> and two counts of making false statements in a tax return for those same years.<sup>3</sup> Two other co-defendants were named in one of the counts for tax evasion. Tweel was sentenced to four years on three counts and three years on each of the other two, all concurrent. He was also fined a total of \$30,000.

The government's evidence showed to the jury's satisfaction that in the tax years, 1967 and 1969, Tweel "laundered" parts of his income to avoid paying taxes by passing sums on to persons who would owe little in taxes because they were in a lower tax bracket or had large losses which would offset the income.

The investigation leading up to appellant's indictment began on May 28, 1969. Don L. Miller, revenue agent for the Internal Revenue Service informed appellant and his wife by letter that he had been assigned to conduct an audit of their federal income tax returns for 1968 through 1968 and asked for an appointment. Appellant's accountant, Ben A. Bagby, telephoned the agent on June 10, 1969 to request a postponement of this audit because the IRS had just completed an audit of appellant's returns for 1958 through 1963. They did set an appointment for August 4, 1969.

\* Senior District Judge of the Western District of Louisiana, sitting by designation.

1. 18 U.S.C. § 371.
2. 26 U.S.C. § 7201 (Internal Revenue Code of 1954).
3. 26 U.S.C. § 7206(1) (Internal Revenue Code of 1954).

During the earlier audit for 1958 through 1963, a special agent of the Intelligence Division of IRS became involved but eventually withdrew, with the audit remaining civil instead of criminal. To discover whether his client was again involved in a criminal inquiry, Bagby asked Miller whether a "special agent" was involved in the new investigation. Miller replied that no special agent was involved. This response led Bagby to believe that Miller was just conducting a civil audit. What Miller did not disclose was that this audit was not a routine audit to which any taxpayer may be subjected from time to time. This audit was conducted at the specific request of the Organized Crime and Racketeering Section of the Department of Justice.<sup>4</sup>

Bagby, who had his own records of appellant's tax affairs as well as some of Tweel's also allegedly obtained additional records from Tweel to voluntarily present to Miller for the new audit. Miller microfilmed all the records that were given to him.<sup>5</sup>

The theory on which the motion to suppress was based is that Miller's microfilming of appellant's records constituted an illegal search in violation of the Fourth Amendment because appellant's consent was obtained through deception. This Court agrees that appellant was grossly deceived and the motion should have been granted; as a matter of procedure we remand this case back to the district court for a hearing to determine what evidence admitted at the trial was tainted due to the government's violation of appellant's constitutional rights.

The district court findings were that the Justice Department requested the IRS to investigate the appellant, a revenue agent was assigned the task, and the accountant

4. The Organized Crime and Racketeering Section of the Justice Department is only involved in criminal investigations and requested this audit in its own name.
5. No summons of any sort was directed to appellant or his accountant by the IRS.

asked the agent whether or not a special agent was involved and received a negative response which was at that point a true statement. The trial judge subsequently stated:

If it is deception not to advise at the outset that you were sent there or requested to be there by the Justice Department when asked the question whether there is a special agent involved, then the Court is wrong.

[1] It is a well established rule that a consent search is unreasonable under the Fourth Amendment if the consent was induced by the deceit, trickery or misrepresentation of the Internal Revenue agent. United States v. Rothstein, 530 F.2d 1275 (5th Cir. 1976); United States v. Dawson, 486 F.2d 1326 (5th Cir. 1973); United States v. Bland, 458 F.2d 1 (5th Cir. 1972) cert. denied, 409 U.S. 843, 93 S.Ct. 43, 34 L.Ed.2d 83 (1972); United States v. Ponder, 444 F.2d 816 (5th Cir. 1971) cert. denied, 405 U.S. 918, 92 S.Ct. 944, 30 L.Ed.2d 788 (1972); United States v. Tonahill, 430 F.2d 1042 (5th Cir. 1970), cert. denied, 400 U.S. 943, 91 S.Ct. 242, 27 L.Ed.2d 247 (1970); United States v. Prudden, 424 F.2d 1021 (5th Cir. 1970), cert. denied, 400 U.S. 831, 91 S.Ct. 62, 27 L.Ed.2d 62 (1970).

[2] The burden for determining whether or not the government has resorted to a deception is on the moving party and this Court in each of the above cases set forth what that party must establish:

We conclude that the mere failure of a revenue agent (be he regular or special) to warn the taxpayer that the investigation may result in criminal charges, absent any acts by the agent which materially misrepresent the nature of the inquiry, do not constitute fraud, deceit and trickery. Therefore, the record here must disclose some affirmative misrepresentation to establish the government's case.

6. The court below appears to have based its decision on United States v. Cleveland Trust Co., 474 F.2d 1234 (5th Cir. 1973), cert. denied sub nom. Micell v. United States, 414 U.S. 866, 94 S.Ct. 48, 38 L.Ed.2d 118 (1973). We do not agree with its applicability. Cleveland Trust was a suit for enforcement of a summons

presentation to establish the existence of fraud, and the showing must be clear and convincing. (Footnote omitted)

Prudden, supra, p. 1033.

The Prudden court also stated that:

Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading.

Supra, p. 1032.

[3] From the facts we find that the agent's failure to apprise the appellant of the obvious criminal nature of this investigation was a sneaky deliberate deception by the agent under the above standard and a flagrant disregard for appellant's rights. The silent misrepresentation was both intentionally misleading and material. Any findings to the contrary under the facts of this case are clearly erroneous. United States v. Reynolds, 511 F.2d 603 (5th Cir. 1975); United States v. Gunn, 428 F.2d 1057 (5th Cir. 1970).<sup>6</sup>

Appellant showed Miller knew that the IRS was acting at the request of the Organized Crime and Racketeering Section of the Justice Department which is undeniably an instrument for criminal investigation. Miller obviously knew the accountant inquired whether a special agent was involved to determine whether he was conducting a criminal audit. Miller's response, although on the face of it true, misled appellant to such a degree that his consent to the "search" must be vitiated by the agent's silence concerning the origin of this investigation.

In this case, the agent testified he intended, if appellant had consented to an interview to advise him of his rights. Because the IRS requires only special agents to warn taxpayers of their rights, by assign-

which was allegedly not issued in good faith. Deception was not the issue in that case.

7. Tweel did not agree to be interviewed.

8. Under Internal Revenue guidelines promulgated in IRS Revenue Release No. 897, 7 CCH 1967 Stand. Fed. Tax Rep. ¶ 6832, and IRS News Release IR-949, 1968 CCH Fed. Tax Rep.

ing a revenue agent the IRS still succeeded in masking the undeniable criminal nature of this investigation and materially deceived this appellant.

[4] We cannot condone this shocking conduct by the IRS. Our revenue system is based upon the good faith of the taxpayers and the taxpayers should be able to expect the same from the government in its enforcement and collection activities.<sup>7</sup>

[5] Since the consent given by appellant was obtained by deception, the microfilming of the documents constituted an unreasonable search in violation of the Fourth Amendment. Gouled v. United States, 255 U.S. 298, 41 S.Ct. 261, 65 L.Ed. 847 (1921). The evidence obtained here in violation of appellant's Fourth Amendment rights, as well as any evidence derived therefrom, should have been suppressed. Alderman v. United States, 394 U.S. 165, 171, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969). The burden of proving any evidence was untainted is on the government. Nardone v. United States, 308 U.S. 338, 341, 60 S.Ct. 266, 84 L.Ed. 307 (1939). Therefore, we remand for a hearing to make that determination. If any of the evidence was tainted, it must be suppressed and appellant afforded a new trial. The other issue raised on appeal is without merit.



\* 6948, a special agent must advise the taxpayer before an interview of the following:

As a special agent, one of my functions is to investigate the possibility of criminal violations of the Internal Revenue Laws, and related offenses. In connection with my investigation of your tax liability (or other matter) I would like to ask you some questions. However, first I advise you that under the Fifth Amendment of the Constitution of the United States I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way.

I. Fraud - 63.10(1)

Phrase "matter within the jurisdiction of a federal agency" as used in statute making it a crime to give false statements concerning matter within jurisdiction of federal agency must be given a broad, non-

you that anything which you say and any information which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of an attorney before responding. Do you understand.

9. During oral argument counsel for the government stated that these procedures were "routine". If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is the "routine" it should

Revenue Agent may not read your rights

UNITED STATES of America, Plaintiff-Appellee,

John Clayton MASSEY, Defendant-Appellant.

No. 76-2595.

United States Court of Appeals, Fifth Circuit.

April 8, 1977.

By a judgment of the United States District Court for the Middle District of Florida, at Ocala, Charles R. Scott, J., the defendant was convicted of giving false information concerning matter within jurisdiction of federal agency and he appealed. The Court of Appeals, Coleman, Circuit Judge, held, inter alia, that where after four separate attempts at interrogation of defendant by FBI defendant signed waiver form and then only after assurance that it was for limited purpose of establishing defendant's itinerary, which was essential for proving or refuting his story about an alleged conspiracy to assassinate, his statements concerning itinerary were obtained in violation of his Miranda rights and should have been suppressed.

Reversed and remanded.

Don't ever understand

# Making an Appealable Record on Fifth Amendment Claims

One area of continuing concern in the post-enforcement context involves the taxpayer's blanket invocation of the Fifth Amendment privilege. As discussed in greater detail at pages 70 to 77 of the *Primer*, a party (usually the taxpayer) who desires to invoke his or her Fifth Amendment privilege in defense to enforcement of a summons *must* do so at the enforcement proceeding on a question-by-question and document-by-document basis. *United States v. Bell*, 448 F. 2d 40, 42 (9th Cir. 1971); *United States v. Davis*, 636 F.2d 1028, 1038-39 (5th Cir.), *cert. denied*, 454 U.S. 862 (1981). All too often, district courts simply overrule blanket assertions of privilege and enter orders enforcing summonses without any meaningful attempt to make the necessary question-by-question, document-by-document inquiry. When confronted with this issue, the courts of appeal usually remand the case to the district court for a particularized inquiry (through an *in camera* inspection, if necessary) of the claim of privilege. *See, e.g., United States v. Grable*, 98 F.3d 251 (6th Cir. 1996), *cert. denied*, 117 S. Ct. 691 (1997); *United States v. Argomaniz*, 925 F.2d 1349 (11th Cir. 1991).

Furthermore, if the question-by-question, document-by-document inquiry was not made at the enforcement hearing, the courts of appeal generally mandate that such an inquiry be made as part of the contempt proceeding. *See, e.g., Grable*, 98 F.3d at 257; *Drollinger*, 80 F.3d at 392; *United States v. Allee*, 888 F.2d 208, 213 (1st Cir. 1989). To avoid the kind of protracted litigation encountered in these cases, Government attorneys handling IRS summons enforcement cases should ensure that Fifth Amendment defenses are properly addressed at the enforcement hearing.

From *United States Attorneys' Bulletin* April 1998

## 7 Questions to ask any attorney, CPA...

..., or anyone else to show them that they have been misled by the IRS, public officials, news media, etc. concerning the income tax laws:

1. Question: Where in the United States Code are the laws regarding income tax?  
Answer: Title 26, Subtitle A
2. Question: How many chapters are there in that subtitle?  
Answer: Six
3. Question: Where in those 6 chapters do you find the withholding of income tax from an American citizen?  
Answer: -----(hint: cannot be found)
4. Question: In the United States Code there are Income tax laws and Internal Revenue Laws, are they one in the same, or are they separate?  
Answer: -----(hint: each is totally separate from the other)
5. Question: How many tax classes are there?  
Answer: (10)
6. Question: Which tax class is the taxable class?  
Answer: (6)
7. Question: Is there ever a time when a form 1040 is 'taxable'?  
Answer: (Only under 6, the tax class which is usually found on the "OFFICIAL INTERNAL REVENUE NON-MASTER FILE TRANSCRIPT.")

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	:
Plaintiff,	:
-vs-	: CIVIL NO. C-1-95-461
WILLIAM J. MERCER,	: Thursday, May 30, 1996
Defendant.	: 10:09 a.m.
	: Cincinnati, Ohio

- - -

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE HERMAN J. WEBER, JUDGE

- - -

For the Plaintiff:	James M. Coombe, Esq. Assistant United States Attorney 220 Potter Stewart U.S. Courthouse 100 East Fifth Street Cincinnati, Ohio 45202
For the Defendant:	William J. Mercer 10133 Breezy Lane Cincinnati, Ohio 45241
Court Reporter:	Julie A. Wolfer, RPR, RMR

- - -

Proceedings recorded in stenotype.  
Transcript produced using computer-aided transcription.



1 was also asked questions so he could testify so they could get  
2 relevant information.

3 THE COURT: I didn't order him to testify, did I?

4 MR. COOMBE: Yes, sir.

5 THE COURT: Where did I --

6 MR. COOMBE: I will read this, sir: The defendant,  
7 William J. Mercer -- this is on Page 2, Your Honor -- shall  
8 appear before the IRS Officer B. Lawrence in Room 503, John  
9 Weld Peck Federal Building, 550 Main Street, on Friday, March  
10 8th, 1996 at 10 a.m. to give testimony --

11 THE COURT: Now stop right there. Now, he did appear  
12 and he gave testimony.

13 MR. COOMBE: I would dispute that, Your Honor.

14 THE COURT: Well, he did -- you gave me a transcript.

15 MR. COOMBE: Yes. He didn't provide any testimony.

16 THE COURT: I'm sorry. I guess we're not on the same  
17 page.

18 MR. COOMBE: I apologize, Your Honor. I don't  
19 believe he gave any testimony.

20 THE COURT: All right. I hold that he did give  
21 testimony.

22 MR. COOMBE: Okay.

23 THE COURT: Now proceed.

24 MR. COOMBE: I really can't proceed, then, Your  
25 Honor.

1 THE COURT: All right. He gave testimony.

2 Now, are you here because he didn't give you the  
3 testimony you wanted? Is that why you're here?

4 MR. COOMBE: Well, Your Honor, my understanding is  
5 that the whole purpose of this procedure was for the IRS to be  
6 able to enforce the summons where it could get testimony needed  
7 to prepare a tax return.

8 THE COURT: The whole purpose of this proceeding is  
9 to determine whether Mr. Mercer deliberately and intentionally  
10 violated the order of this Court, and I say I have been -- he  
11 did appear and he did testify.

12 MR. COOMBE: I don't think he answered the questions,  
13 Your Honor.

14 THE COURT: "Did you complete it, sir? No, of course  
15 not." Did I order him to complete a form?

16 MR. COOMBE: Sir, I think we're talking about a  
17 different transcript. I'm talking about the March 8th  
18 transcript, Your Honor.

19 THE COURT: That's exactly the -- oh. This is April  
20 the 11th.

21 MR. COOMBE: He came in a second time, Your Honor,  
22 voluntarily and didn't -- and Ms. Lawrence had instructed  
23 him --

24 THE COURT: All right. Let's go to the March 8th.

25 "Donations from whom?" I just picked one line.

1 "From friends." He answered your question.

2 MR. COOMBE: Your Honor, on March --

3 THE COURT: On Page 2.

4 MR. COOMBE: Sir, could we turn to Page 5?

5 THE COURT: Sure.

6 MR. COOMBE: Do you have that in front of you, sir?

7 THE COURT: Yes, sir.

8 MR. COOMBE: They asked him about personal expenses.  
9 He said, "ditto".

10 THE COURT: That's right. "Ditto," and he refers  
11 back to his Fifth Amendment -- his claiming the Fifth  
12 Amendment. He said that he was perjured -- he would perjure  
13 himself if he answered the question, and then he said, "Ditto.  
14 Ditto. Ditto. Ditto."

15 MR. COOMBE: That's correct.

16 THE COURT: And, to me, he claimed the Fifth  
17 Amendment. ~~\_\_\_\_\_~~ 

18 MR. COOMBE: Your Honor, under the Powell decision  
19 which we have cited in both our hearings before Judge Steinberg  
20 and the motions we filed in our original complaint, all the  
21 United States has to do to have a summons enforced is to  
22 provide four pieces of information which we have done countless  
23 times before, and that is to show that the inquiry that we're  
24 seeking to obtain information for is based on a legitimate  
25 request that is to prepare a tax return, the information is not

1 within the hands of the commissioner which has been testified  
2 to by Ms. Lawrence previously, and that there is no criminal  
3 investigation currently pending, which is the case, and that's  
4 been testified to.

5 I really don't know what more the United States --

6 THE COURT: In other words, you say he has no right  
7 to claim the Fifth Amendment?

8 MR. COOMBE: Well, Your Honor, I don't think that's  
9 been accepted by anybody concerning a civil summons  
10 enforcement. I'm not aware of a case that allows him to do  
11 that.

12 When there is a criminal investigation, I think there  
13 is a chance of incrimination and that's the case. I am  
14 maintaining to this Court today that I personally am not aware  
15 of any criminal investigation.

16 THE COURT: You mean to tell me that a witness cannot  
17 claim the Fifth Amendment in a civil case?

18 MR. COOMBE: I'm saying they can in certain  
19 circumstances, Your Honor. But let's ask a rhetorical  
20 question. If every single person decides to take the Fifth  
21 Amendment on a tax return, the tax is never going to be  
22 collected.

23 THE COURT: That's exactly what they can do as I  
24 understand it.

25 MR. COOMBE: I'm saying the Courts have ordered that

Unlike the foregoing procedure, in the case *sub judice*, we are dealing with a demand through a subpoena *duces tecum* for an individual to appear and produce certain personal tax records, papers and federal tax returns for inspection by the local taxing authorities. This is dissimilar to the situation where the tax return is requested by the local government from the Internal Revenue Service as allowed by federal law. The appellee, in refusing to divulge his tax records, has claimed that being required to do so against his will would violate his Fifth Amendment rights against self-incrimination.

X  
X  
The Fifth Amendment to the United States Constitution provides in pertinent part that no person "shall be compelled in any criminal case to be a witness against himself." This protection exists primarily to "assure that an individual is not compelled to produce evidence which may later be used against him as an accused in a criminal action." *Maness v. Meyers* (1975), 419 U.S. 449, 461, 95 S.Ct. 584, 592, 42 L.Ed.2d 574, 585. The protection of this amendment applies in any type of proceeding, whether civil, criminal, administrative, investigatory, or adjudicatory. *Maness, supra; Leskowitz v. Turley* (1973), 414 U.S. 70, 94 S.Ct. 316, 38 L.Ed.2d 274; *Kastigar v. United States* (1972), 406 U.S. 441, 92 S.Ct. 1653, 32 L.Ed.2d 212. Further, as pointed out by the United States Court of Appeals, Fourth Circuit, in *United States v. Sharp* (CA.4, 1990), 920 F.2d 1167, 1170, the Fifth Amendment "applies not only to evidence which may directly support a criminal conviction, but to information which would furnish a link in the chain of evidence that could lead to prosecution, as well as evidence which an individual reasonably believes could be used against him in a criminal prosecution." (Quoting *Maness, supra*, 419 U.S. at 461, 95 S.Ct. at 592, 42 L.Ed.2d at 585.)

X  
The Fifth Amendment protects the person against incrimination through compelled testimony or other compelled acts having some testimonial character. The Fifth Amendment privilege is a personal one, adhering to the person, and not to the information that may tend to incriminate him or her.<sup>2</sup> *Couch v.*

2. Since the Fifth Amendment right is a personal right, an individual may not claim such privilege on behalf of a collective entity or organization of which he may be a part. Neither a partnership, a corporation, nor any other collective entity is shielded by the Fifth Amendment from the compelled production of an organization's records. *Bellis v. United States* (1974), 417 U.S. 85, 94 S.Ct. 2179, 40 L.Ed.2d 678; *Curcio v. United States* (1957), 354 U.S. 118, 77 S.Ct. 1145, 1 L.Ed.2d 1225] and *Ottensmeyer's Fruit Works, Inc.* (CA.2, 1979), 596 F.2d 313. Moreover, federal courts have determined other instances where the Fifth Amendment privilege may not be invoked. Specifically, these courts have held that the privilege does not provide protection against production of an individual's tax records that have been turned over to a third party. For example, documents possessed by a taxpayer's accountant are not subject to the Fifth Amendment privilege, *Couch*, ~~239 S.Ct.~~ *United States v. Daffin* (CA.4, 1981), 653 F.2d 121; nor are documents prepared by the taxpayer's accountants and transferred to the attorneys in connection with an IRS investigation, *Fisher*, ~~439 U.S.~~



X\*

United States v. infra;

infra.

1 summonses be enforced and people be compelled --

2 THE COURT: I did enforce your summons. Mr. Mercer  
3 did testify and he claimed the Fifth Amendment as to certain  
4 answers, and in a civil action that can be used against him.  
5 That can be inferred against him. But in a criminal matter it  
6 can't. The government has not granted immunity in this case to  
7 this taxpayer.

8 MR. COOMBE: That's true.

9 THE COURT: And I guess there's no intent to grant  
10 immunity.

11 MR. COOMBE: There's no intent to prosecute either  
12 right now.

13 THE COURT: All right. But what we're doing here --

14 MR. COOMBE: Your Honor, may I ask the Court a  
15 question?

16 THE COURT: Sure.

17 MR. COOMBE: How would the Court suggest the United  
18 States wrap this matter up and get the --

19 THE COURT: I suggest you file an indictment.

20 MR. COOMBE: Indictment.

21 THE COURT: Yes, sir.

22 MR. COOMBE: Okay, Your Honor.

23 I don't think there's anything further, then, that  
24 the United States has to present.

25 THE COURT: Mr. Mercer.

1 MR. MERCER: Yes, sir.

2 THE COURT: This is between you and me. Get up here.  
3 You're under oath.

4 Do you have any W-2 forms for 1992?

5 MR. MERCER: Not that I know of.

6 THE COURT: Do you have any 1099 forms for 1992?

7 MR. MERCER: Not that I know of.

8 THE COURT: Did you search for them?

9 MR. MERCER: Yes, I did.

10 THE COURT: Any employee earning statements?

11 MR. MERCER: None.

12 THE COURT: Records of deposits with banks or other  
13 financial institutions?

14 MR. MERCER: Not that I know of.

15 THE COURT: Did you search for them?

16 MR. MERCER: I did look.

17 THE COURT: Do you have any books, records,  
18 documents, and receipts for income from wages, salaries, tips,  
19 fees, commissions, interest, rents, royalties, alimony, state  
20 or local refund taxes, annuities, life insurance policies,  
21 endowment contracts, pensions, estates, trusts, discharge of  
22 indebtedness, distributive shares of partnership income,  
23 business income, gains from dealing in property, and any other  
24 compensation for services, including receipts of property or  
25 other money?

1 MR. MERCER: For 1992?  
 2 THE COURT: 1992.  
 3 MR. MERCER: No, not that I know of.  
 4 THE COURT: Did you search for them?  
 5 MR. MERCER: I did.  
 6 THE COURT: Remember, you're under oath.  
 7 MR. MERCER: I am.  
 8 THE COURT: In other words, you have no records of  
 9 income?  
 10 MR. MERCER: I have no records for 1992.  
 11 THE COURT: All right.  
 12 MR. MERCER: May I ask the Judge --  
 13 THE COURT: Yes.  
 14 MR. MERCER: -- the IRS agent a question?  
 15 THE COURT: Well, you may ask me a question.  
 16 MR. MERCER: Do they have any records on me or for  
 17 me?  
 18 THE COURT: That's really not what we're talking  
 19 about here. We're talking about whether you violated this  
 20 order of mine.  
 21 MR. MERCER: Oh. I have no records.  
 22 THE COURT: Now, in your briefs you claim the Fifth  
 23 Amendment. Is that what you're claiming?  
 24 MR. MERCER: Yes.  
 25 THE COURT: In other words, you say that if you

1 answered these questions that were propounded to you by the  
 2 IRS, that you'll perjure yourself?  
 3 MR. MERCER: I asked them 38 questions that I sent to  
 4 the district director, and they did not respond.  
 5 THE COURT: The issue is not whether they  
 6 responded --  
 7 MR. MERCER: If they do not answer me, answer the  
 8 questions, I will -- and without those answers to the  
 9 questions, I will run -- without knowing the answer to those  
 10 questions, I will run a risk of perjuring myself.  
 11 THE COURT: The issue are these documents that you  
 12 and I've just discussed, and you say you have none.  
 13 MR. MERCER: I have none, yes, for 1992.  
 14 THE COURT: 1992. Do you have any records for any  
 15 other year?  
 16 MR. MERCER: I have -- I just don't keep records. I  
 17 have not got a letter from the Secretary instructing me which  
 18 records to keep.  
 19 THE COURT: Well, the issue is whether you have any  
 20 records.  
 21 MR. MERCER: I do not keep records.  
 22 THE COURT: All right. You have no records?  
 23 MR. MERCER: No.  
 24 THE COURT: All right.  
 25 MR. MERCER: I have not been instructed which records

1 to keep.

2 THE COURT: Now, I noticed that reading through the  
3 transcript of the proceedings that you had with the IRS, have  
4 you read through those, that transcript?

5 MR. MERCER: Yes, I did.

6 THE COURT: Now, do you -- you also recorded the  
7 proceedings.

8 MR. MERCER: Yes, I did.

9 THE COURT: Now, did your transcript of the  
10 proceedings correspond --

11 MR. MERCER: It's fairly close.

12 THE COURT: -- that I have before me a copy.

13 MR. MERCER: They've made a few omissions.

14 THE COURT: Was there any material --

15 MR. MERCER: Nothing that's really important that I  
16 can see.

17 THE COURT: Now, you say there was a mention here of  
18 printing business, Mercer Printing Company, Inc.

19 MR. MERCER: Yes.

20 THE COURT: Is that -- does a corporation exist?

21 MR. MERCER: No.

22 THE COURT: Did it exist in 1992?

23 MR. MERCER: Ho. It existed, but it did not do any  
24 business.

25 THE COURT: Did you pay the franchise tax?

1 MR. MERCER: I don't think so. So, no.

2 THE COURT: Now, then, in your brief to me -- and I  
3 haven't had a chance to look at the brief or the memorandum you  
4 filed this morning. You understand that?

5 MR. MERCER: Yes.

6 THE COURT: But in the brief that you filed to me or  
7 gave me, I think you did claim your Fifth Amendment rights; is  
8 that correct?

9 MR. MERCER: Yes.

10 THE COURT: All right. Thank you.

11 Mr. Coombe, I don't know whether you want to ask the  
12 witness any questions or not?

13 MR. COOMBE: I think Your Honor has been very  
14 thorough in asking questions, Your Honor. No, Your Honor.

15 THE COURT: Any witness, any evidence you wish to  
16 present, Mr. Coombe?

17 MR. COOMBE: In light of your holding, Your Honor,  
18 about testimony being given, I don't think there's anything I  
19 can put on that would change that, Your Honor.

20 THE COURT: Let the record show that the Court finds  
21 that Mr. Mercer stated that he wanted to cooperate.

22 Is that correct, Mr. Mercer?

23 MR. MERCER: Yes, sir.

24 THE COURT: And that's still your position; correct?

25 MR. MERCER: Yes, sir.

1 THE COURT: That he did appear as ordered by the  
2 Court on March the 8th, 1996 at 10 a.m. That's correct, isn't  
3 it? That I -- that he did give testimony; that he stated at  
4 the time of the hearing before the Internal Revenue officer and  
5 that he has reiterated that in this court under oath that he  
6 has no records, and I went through the list of records that I  
7 ordered him to produce and he said that he has no records and  
8 in fact he says he has kept no records.

9 Going further, he has also invoked the Fifth  
10 Amendment as to certain questions that were asked at the  
11 Internal Revenue hearing. It's the opinion of this Court that  
12 the fact that we have a tax code does not in my opinion take  
13 away our right as citizens to claim the Fifth Amendment when we  
14 feel that they will be -- when we will be incriminated by the  
15 statements that we give. The fact that we take the Fifth  
16 Amendment can be used to infer that the individual claiming the  
17 Fifth has affirmed or agreed that there were in this case  
18 records, and the Court could then infer that the defendant  
19 failed to bring those records and that would be the basis to  
20 hold the defendant in contempt.

21 In this case I have placed the defendant under oath,  
22 I have specifically asked him whether he had these records. He  
23 has specifically denied that he has these records and that he  
24 has no records. And in view of the state of the situation at  
25 this time, I dismiss the show cause or the contempt order

1 against him and I find that he has answered those questions  
2 under oath and that according to his testimony under oath he  
3 has no records.

4 Now, Mr. Mercer, have I said something that is not  
5 true?

6 MR. MERCER: No.

7 THE COURT: Mr. Coombe, I've tried to make the record  
8 as clear and as concise as I can be on this particular issue.

9 MR. COOMBE: For the sake of the record, Your Honor,  
10 no disrespect to the Court, the United States notes its  
11 objection to the finding that the testimony was given for the  
12 sake of the record, Your Honor.

13 Thank you.

14 THE COURT: Do you wish to argue that point at all  
15 any further other than what you have?

16 MR. COOMBE: I wouldn't want to take any more of the  
17 Court's time. I don't think I can convince you, Your Honor.

18 THE COURT: This case is dismissed. Thank you.

19 Mr. Mercer, you have so many days to appeal according  
20 to the rules.

21 Mr. Coombe, I'm sure you're aware that you can appeal  
22 the case.

23 MR. COOMBE: Absolutely, Your Honor.

24 (Proceedings concluded at 10:28 a.m.)

25 - - -

ENTERED  
CLERK, U.S. DISTRICT COURT  
DEC 30 1997  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

FILED  
CLERK, U.S. DISTRICT COURT  
DEC 29 1997  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, )  
12 ) Plaintiff, ) No. 93-5736 SVW (SHx)  
13 ) v. ) ORDER DENYING MOTION  
14 ) ) TO COMPEL  
15 ) )  
16 ) )  
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28 ) )

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

I. Background

Defendant was served with an IRS summons ordering him to appear before an IRS agent on March 9, 1993. He was also ordered to bring all documents and records he possessed or controlled that reflect income he earned or received for the years 1986, 1987, 1988, 1989, 1990 and 1992. The government moved the Court for an order compelling defendant's compliance. The order was granted on December 6, 1993 and Defendant was interviewed on January 14, 1994.

At the interview, Defendant, invoking his Fifth Amendment

1 privilege against self-incrimination, refused to produce documents or  
to answer a series of questions put forth by the government. On  
3 March 24, 1995, this Court reluctantly held that Ninth Circuit  
4 precedent created a "Tax-Crime Exception" to the Fifth Amendment and  
5 ordered Defendant to comply with the IRS Summons. The Court stayed  
6 enforcement of the order pending review on appeal and urged the Ninth  
7 Circuit to overturn its previous decisions and permit the defendant  
8 to invoke his Fifth Amendment privilege in this case.

9 On appeal, the Ninth Circuit vacated the Court's order, holding  
10 that "the Fifth Amendment may be validly invoked when the taxpayer  
11 fears prosecution for tax crimes." United States v. Troescher, 99  
12 F.3d 933, 936 (9th Cir. 1996). The Court now considers whether the  
13 Fifth Amendment was properly invoked in this case.

## 14 II. Analysis

15 The Fifth Amendment protects a person against being incriminated  
16 by his own compelled testimonial communications. Fisher v. United  
17 States, 425 U.S. 391, 409 (1976). A communication is testimonial if  
18 it would directly or indirectly reveal the defendant's knowledge of  
19 facts relating him to the offense or require the defendant to share  
20 his thoughts and beliefs with the government. Doe v. United States,  
21 487 U.S. 201, 213 (1988) ("Doe 2"). While the contents of  
22 voluntarily prepared documents are not privileged, the act of  
23 producing documents may be testimonial and thus could be privileged.  
24 United States v. Doe, 465 U.S. 605, 617 (1984) ("Doe 1").

25 "Whether a compelled communication is testimonial for purposes  
26 of applying the Fifth Amendment often depends on the facts and  
circumstances of the particular case." Doe 2, 487 U.S. at 214-15.

28

1 In Doe 2, for example, the Court held a defendant could be compelled  
to sign a form permitting consenting to the production of records by  
3 "any bank or trust company at which I [the defendant] may have a bank  
4 account of any kind ..." Id. at 204, n.4. Signing the form was not  
5 a testimonial act because it neither acknowledged that the defendant  
6 had an account at any institution or admitted the authenticity of any  
7 records that may be produced. Id. at 216. In contrast, Doe 1  
8 involved, inter alia, subpoenas for business records for a specific  
9 company owned by the defendant and bank statements and canceled  
10 checks for two of the defendant's companies that had accounts with  
11 foreign banks. Doe 1, 465 U.S. at 607. The Court held that by  
12 producing these documents the defendant would, in effect, be  
13 admitting that the records exist, are in the defendant's possession  
14 and are authentic. Id. at 613.

15 Ultimately, the court must look at each individual question or  
16 document request posed by the IRS and determine whether Defendant is  
17 "faced with substantial hazards of self incrimination that are real  
18 and appreciable not merely imaginary and unsubstantial." Troescher,  
19 99 F.3d at 935 (internal citations omitted). If a direct answer  
20 would support a conviction or provide a link in the chain of evidence  
21 leading to a conviction Defendant cannot be compelled to answer the  
22 question. Troescher, 99 F.3d at 934-35 (citing Hoffman v. United  
23 States, 341 U.S. 479, 486 (1951)). Defendant has identified thirty-  
24 three questions which he believes he may validly assert his Fifth  
25 Amendment right. These questions can be divided into three  
26 categories:

///

1           A.    Personal questions

2           Information may be either incriminating on its face, Hoffman,  
3   341 U.S. at 487, or, the person asserting the privilege may  
4   demonstrate that otherwise innocent information has incriminating  
5   potential within the context of the particular questioning. United  
6   States v. Sharp, 920 F.2d 1167, 1170 (4th Cir. 1990) (citing United  
7   States v. Rylander, 460 U.S. 752, 758-59 (1983)). Many of the  
8   questions posed at the IRS interview asked the Defendant for personal  
9   information, which would normally not be subject to Fifth Amendment  
10  protection. Because Defendant is alleged not to have filed tax  
11  returns for a number of years, however, these answers could lead  
12  investigators to find unreported income. For example, questions  
13  regarding Defendant's marital status and the names and social  
14  security numbers of his children -- information which normally would  
15  not be incriminating -- may properly be objected to in this context.

16           The Court concludes, therefore, that Troescher has properly  
17  objected to the following questions:

- 18           1.    Have you ever used Social Security Number 567-44-3458?<sup>1</sup>  
19           2.    Do you know who is assigned Social Security number 567-44-  
20                3458?  
21           3.    What is your date and place of birth?  
22           4.    Have you used any other names?  
23           5.    How long have you lived at your current address?<sup>2</sup>  
24           6.    Do you have any plans to move from your current address?  
25           7.    Are you a U.S. Citizen?  
26           8.    What is your date, place and name of court if naturalized?  
27           9.    What is your marital status? Are you single, married,  
28                divorced or separated?  
            10.   What is your wife's maiden name, date and place of  
                  marriage?

---

26           <sup>1</sup>This number is not Defendant's social security number,  
            which he is willing to provide.

28           <sup>2</sup>Defendant provided his address.

- 1 11. What are the names, dates of birth and Social Security  
Numbers of your children?  
2 12. What is the extent of your education, year of high school  
3 graduation, college, trade schools attended, diplomas  
obtained, professional certifications held, etc.?

4 The Court notes that the assertion of the privilege as to  
5 questions 5 and 6, which pertain to Defendant's tenure at his current  
6 residence and relocation plans (or lack thereof) is questionable.  
7 However, Defendant's tenure at his current residence is easily  
8 obtainable from other sources, including public records. Therefore,  
9 even if Defendant could be compelled to answer this question, the  
10 government is not prejudiced by Defendant's refusal to answer.  
11 Similarly, the Court fails to see the relevance of Defendant's  
12 relocation plans to this investigation. Thus, Defendant will not be  
13 compelled to answer either question, despite legitimate arguments as  
14 to whether they fall within the scope of the Fifth Amendment  
15 privilege.

16 B. Occupational Questions

17 As with the questions pertaining to Defendant's personal  
18 life, questions seeking information regarding Defendant's occupation  
19 may also lead to incriminating evidence. The answers to each of the  
20 following questions could conceivably lead to the discovery of  
21 evidence showing that Defendant received income which he has not, to  
22 date, reported to the IRS. Accordingly, Defendant properly asserted  
23 the Fifth Amendment privilege as to the following questions:

- 24 13. What is your occupation?  
25 14. Have you had any other occupations in previous years?  
26 15. Did you file tax returns for the years 1986 through 1991?  
27 16. Did you file any federal income tax returns for any  
partnership, joint venture, corporation or fiduciary, which  
was also known as a trust, both foreign or domestic for the  
1986 through 1991 tax periods?  
28 17. Have you ever engaged in a business as a sole proprietor?

- 1 18. Have you ever owned any interest in any partnership,  
2 foreign or domestic, as a general or limited partner?
- 3 19. Have you ever owned any interest in any corporation both  
4 foreign or domestic?
- 5 20. Have you engaged in any other business or any joint  
6 ventures since the periods mentioned above?

7 C. Financial Questions

8 Finally, Defendant objects to questions pertaining to his  
9 assets, banking practices and production of business records. The  
10 questions are clearly subject to Fifth Amendment protection:  
11

- 12 21. What banks were business and personal accounts maintained  
13 by you and your related businesses for the 1986 through  
14 1991 tax periods?
- 15 22. What was the largest amount of cash or currency which you  
16 had at any time at your home, in a safe deposit or place  
17 other than on deposit in a bank?
- 18 23. Do you keep your cash or other assets hidden in a mattress  
19 buried in a backyard or kept in other non conventional  
20 places?
- 21 24. Please list all assets purchased during the 1986 through  
22 1991 tax periods. These purchases should include but not  
23 be limited to real estate, stocks, bonds, personal property  
24 exceeding \$1,000?
- 25 25. Have you ever submitted a statement of your assets and  
26 liabilities to any bank concern or individual?
- 27 26. Have you ever loaned any money to any person or firm during  
28 the 1986 through 1991 tax periods?
- 29 27. Please disclose all sources of income during the 1986  
30 through 1991 tax periods that you received and/or earned  
31 including income from taxable and non-taxable sources.
- 32 28. Have you or your spouse made any investments or acquired  
33 any assets in the 1986 through 1991 tax periods which have  
not been discussed during this interview?
- 34 29. Have you or your spouse received any income from any source  
during the 1986 through 1991 tax periods which has not been  
discussed during this interview?
- 35 30. Has anyone as a favor to you or in any way, held for you  
any real property, personal property, cash, currency or  
anything of value?
- 36 31. Will your books and records and the books and records of  
your related entities be made available for examination by  
any agent of the IRS?
- 37 32. Will you agree to submit a statement of your assets and  
liabilities as of the beginning of 1986 through the end of  
1991?
- 38 33. Will you agree to submit a statement of estimated personal  
and family living expenses for the 1986 through 1991 tax  
periods?

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The Court has considered each of the questions and document requests put to Defendant and concludes that Defendant properly invoked his Fifth-Amendment privilege in each instance. Accordingly, the government's motion to compel Defendant's answer is DENIED.

IT IS SO ORDERED.

DATED: 12/23/87

  
STEPHEN V. WILSON  
UNITED STATES DISTRICT JUDGE

# Summons



Department of the Treasury  
Internal Revenue Service

In the matter of \_\_\_\_\_  
Internal Revenue District of \_\_\_\_\_ Periods \_\_\_\_\_  
The Commissioner of Internal Revenue  
To \_\_\_\_\_  
At \_\_\_\_\_

You are hereby summoned and required to appear before \_\_\_\_\_  
an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and  
other data relating to the tax liability or the collection of the tax liability or for the purpose of enquiring into any offense connected with the administration or  
enforcement of the internal revenue laws concerning the person identified above for the periods shown.

DO NOT WRITE IN THIS SPACE

Business address and telephone number of Internal Revenue Service officer named above:

\_\_\_\_\_

Place and time for appearance:

at \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ at \_\_\_\_\_ o'clock \_\_m.

Issued under authority of the Internal Revenue Code this \_\_\_ day of \_\_\_\_\_, 19\_\_

_____ Signature of Issuing Officer	_____ Title
_____ Signature of Approving Officer (if applicable)	_____ Title

Original to be kept by IRS

→ **Form 2039 (Rev. 7-92)**

Exhibit (42)200-3

Administrative Summons

2039 →

Summons  Department of the Treasury  
Internal Revenue Service

In the matter of \_\_\_\_\_

Internal Revenue District of \_\_\_\_\_ Periods \_\_\_\_\_

The Commissioner of Internal Revenue

To \_\_\_\_\_

At \_\_\_\_\_

You are hereby summoned to appear before  
an officer of the Internal Revenue Service, \_\_\_\_\_  
to sign before the said  
or his/her designee the attached consent directive for production of records, if any,  
relating to the tax liability or the collection of the tax liability or for the purpose of  
inquiring into any offense connected with the administration or enforcement of the  
Internal Revenue laws concerning the person identified above for the period shown.]

(Please note bracketed changes to form 2039)

Business address and telephone number of Internal Revenue Service officer named above:

Place and time for appearance:

at \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_m.

issued under authority of the Internal Revenue Code this \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_

\_\_\_\_\_  
Signature of Issuing Officer Title  
\_\_\_\_\_  
Signature of Approving Officer of addressee Title

Original to be kept by IRS

Form 2039 (Rev. 5-67)

MT (42)-1

CCO Manual

Exhibit (42)200-3 Cont. (1)

IRC  
7603 ↔

Administrative Summons

Service of Summons, Notice  
and Recordkeeper Certificates



(Pursuant to section 7602, Internal Revenue Code)

I certify that I served the summons shown  
on the front of this form on:

Date \_\_\_\_\_ Time \_\_\_\_\_

How  
Summons

I handed an attested copy of the summons to  
the person to whom it was directed.

Was  
Served

I left an attested copy of the summons  
at the last and usual place of abode of  
the person to whom it was directed. I  
left the copy with the following  
person (if any).

Signature \_\_\_\_\_ Title \_\_\_\_\_

This certificate is made to show compliance with section 7609,  
Internal Revenue Code. This certificate applies only to summonses  
served on third-party recordkeepers and not to summonses served  
on other third parties or any officer or employee of the person to

whom notice is given. It does not determine whether or not  
records of the business transactions or affairs of an identified  
person have been made or kept.

I certify that, within 3 days of serving the summons, I gave  
notice (Form 2025-D) to the person named below on the date and  
in the manner indicated.

Date of Giving Notice: \_\_\_\_\_ Time: \_\_\_\_\_

Name of Noticee: \_\_\_\_\_

Address of Noticee (if mailed): \_\_\_\_\_

How  
Notice  
Was Given

I gave notice by certified or registered  
mail to the last known address of the  
noticee.

In the absence of a last known address  
of the noticee, I left the notice with the  
person summoned.

I gave notice by handing it to the  
noticee.

I left the notice at the last and usual  
place of abode of the noticee. I left the  
copy with the following person (if any):

No notice is required.

Signature \_\_\_\_\_ Title \_\_\_\_\_

I certify that the period prescribed for beginning  
a proceeding to quash this summons has expired  
and that no such proceeding was instituted or  
that the noticee consents to the summons.

Signature \_\_\_\_\_ Title \_\_\_\_\_

**Exhibit (42)200-3 Cont. (3)**

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**Administrative Summons** 0

The foregoing authorizations and directions are intended to apply to any foreign law, including the laws of \_\_\_\_\_ and \_\_\_\_\_, relating to the seeking, divulging or obtaining of confidential or financial information and it shall be construed as consent with respect thereto as the same shall apply to any of the bank accounts for which I may be a relevant principal and to any transaction otherwise described herein.

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Special Agent  
Internal Revenue Service



Exhibit 300-14

Form 2039

(Rev. 11-78)

Summons



Department of the Treasury Internal Revenue Service

Harrison Sales Co., Inc. 718 Rand Street Houston, Texas 77013

In the matter of the tax liability of Internal Revenue District of Austin, Texas

The Commissioner of Internal Revenue Mr. J.C. Harrison, as President of To Harrison Sales Co., Inc. At 718 Rand Street, Houston, Texas 77013

You are hereby summoned and required to appear before Norman A. Stone on a place of the Internal Revenue Service, to give testimony relating to the tax liability of the person identified above for the periods shown and to bring with you and produce for examination the following books, records, papers, and other data: The following records of Harrison Sales Co., Inc. Customer's files for the years 19\_\_ , 19\_\_ , and 19\_\_ containing the following data:

- (1) Retained copy of customer's invoices on charge sales made in the years 19\_\_ , 19\_\_ , and 19\_\_ . (2) Delivery receipts on these sales. (3) Customer's accounts receivable account cards reflecting installment payments made on these sales.

Customer's account cards for accounts to whom sales were made in 19\_\_ , 19\_\_ , and 19\_\_ on which current payments are still being made are excepted from the requirement for production at the time and place shown, provided that access to such of these records as is required will be granted at a mutually appointed time at the company's office, to be agreed upon at this appearance.

Business address and telephone number of Internal Revenue Service officer named above: Suite 250, 2525 North Loop W., Houston, Texas 7713-527-4681

Place and time for appearance: at 210 Federal Land Bank Building, 430 Lamar Ave., Houston, Texas on the 29th day of July, 19\_\_ at 10:00 o'clock A.M.

Issued under authority of the Internal Revenue Code this 18th day of July, 19\_\_ Signature of Issuing Officer: Norman A. Stone, Special Agent; Signature of Approving Officer (if applicable): Penelope M. Morrison, Group Manager

Original to be kept by IHS

Part A - To be given to person summoned

Part C - To be given to notice

Form 2039 (Rev. 11-78)

Form 2039-A (Rev. 11-78)

Form 2039-C (Rev. 11-78)

201

Exhibit 300-14 Cont. (1)

Form 2039

Certificate of Service of Summons and Notice



(Pursuant to section 7609, Internal Revenue Code).

I certify that I served the summons shown on the front of this form on:

Date July 18, 19\_\_ Time 10:15 A.M.

How Summons Was Served: I handed an attested copy of the summons to the person to whom it was directed. 718 Rand Street, Houston, Texas

Signature: Norman A. Stone Title: Special Agent

This certificate is made to show compliance with section 7609, Internal Revenue Code. This certificate applies only to summonses served on third party record-keepers and not to summonses served on other third parties or any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Form 2039 D) to the person named below on the date and in the manner indicated:

Date of Giving Notice: Name of Noticee: Address of Noticee (if mailed):

How Notice Was Given: I gave notice by certified or registered mail to the last known address of the noticee. I gave notice by handing it to the noticee. I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). No notice is required.

Signature: Norman A. Stone Title: Special Agent

Form 2039 (Rev. 11-78)

Cannot  
issue w/out  
your sig

640047

Department of the Treasury - Internal Revenue Service

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

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

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

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

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

Please give them access to all records, papers, memoranda, data, or information of any other kind, however arranged, about your firm's transactions with \_\_\_\_\_ who died \_\_\_\_\_

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

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

_____ (Signature)	_____ (Title)	_____ (Date)
_____ (Signature)	_____ (Title)	_____ (Date)
_____ (Signature)	_____ (Title)	_____ (Date)

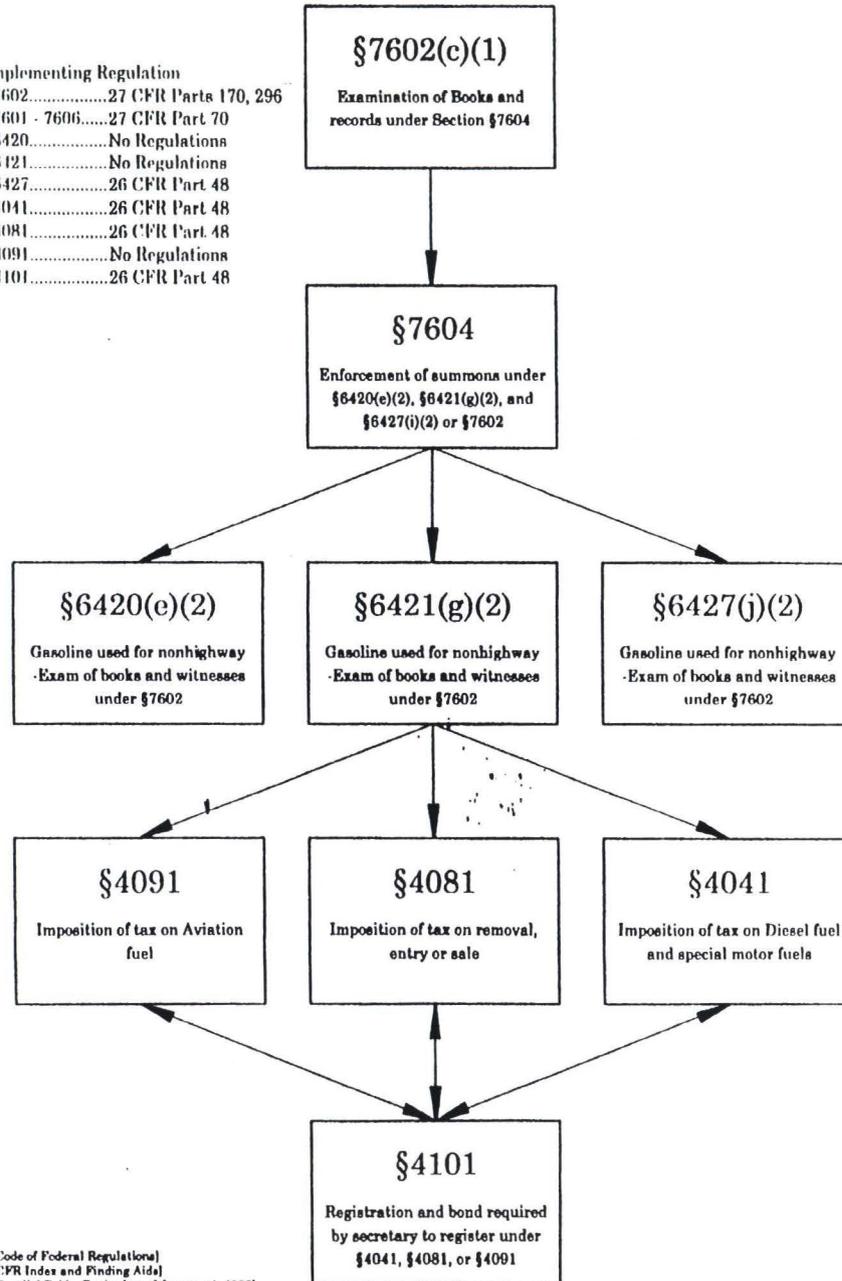
Form **6014** (Rev. 10-88)

# 2039 Summons under Title 26 §7602(c)(1)

Form 2039 - Administrative Summons Obtaining Evidence from Abroad Administratively

Implementing Regulation

§7602.....	27 CFR Parts 170, 296
§7601 - 7606.....	27 CFR Part 70
§6420.....	No Regulations
§6421.....	No Regulations
§6427.....	26 CFR Part 48
§4041.....	26 CFR Part 48
§4081.....	26 CFR Part 48
§4091.....	No Regulations
§4101.....	26 CFR Part 48



Department of the Treasury  
Internal Revenue Service  
FOIA Disclosure Officer

DATE:  
CERTIFIED MAIL #  
Name  
ADDRESS  
Account #

**Re: Freedom of Information Act Request for copy of *recorded* information**

Dear Sir or Madam:

This is a request under the Freedom of Information Act, 5USC 552, or regulations thereunder. This request is not an interrogatory. There are no questions asked in this request.

Should you decide that this request has been sent to the wrong office please make certain that you forward this request to the proper office and notify me of same.

This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).

BACKGROUND for Requests. Someone from the Internal Revenue Service sent me a letter (attached and marked as EXHIBIT A) and I cannot read the name.

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

I am attesting under the penalty of perjury that I am a category (E) requestor.  
PLEASE EXPEDITE THIS REQUEST.

1. Please send me a copy of the documentation that shows the above employee's position with the Internal Revenue Service.
2. Please send me a copy of the documentation which shows the GS level of the individual who sent me the aforementioned correspondence (Exhibit A).
3. Please send me a copy of the above named individuals' job description and appointment letter.
4. Please send me a copy of the letter of authority for the individual who signed the above-mentioned (Exhibit A).
5. Please send me a copy of the delegation of authority order for the above named individual up to and including the District Director with a copy of the appointment letter.
6. Please send me a copy of all documents that disclose the identification number of the audit group and branch manager's name and title to which the requester's case has been assigned.

Upon renaming, renumbering or redesigning records infra, consider this request as seeking those records as identified with my name. Your reply must be specific, not broad in form.

County of \_\_\_\_\_ >

State of \_\_\_\_\_ >

Subscribed and sworn to before Me this \_\_\_\_ day of \_\_\_\_\_ 1999.

IN WITNESS WHEREOF, I have set My hand and official seal:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires



# Summons

COP

In the matter of \_\_\_\_\_  
Internal Revenue District of Ohio Periods January 1, 1997 thru December 31, 1998  
**The Commissioner of Internal Revenue**

To: \_\_\_\_\_  
At: 127 Public Square  
Cleveland, OH 44114

You are hereby summoned and required to appear before \_\_\_\_\_, s. 31-04581 or designated agent  
an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers,  
and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the  
administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

See Attachment to Form 2039

### Attestation

I hereby certify that I have examined and compared this copy of the summons with the original  
and that it is a true and correct copy of the original.

\_\_\_\_\_  
Signature of IRS officer serving the summons

\_\_\_\_\_  
Title

**Business address and telephone number of IRS officer before whom you are to appear:**

Internal Revenue Service, 433 N. Summit Street, Suite 226, Toledo, Ohio 43604 416

**Place and time for appearance at** Internal Revenue Service, 433 N. Summit St., Suite 226, Toledo, Ohio 43604



Department of the Treasury  
Internal Revenue Service

[www.irs.ustreas.gov](http://www.irs.ustreas.gov)

Form 2039 (Rev. 9-1999)  
Catalog Number 21405J

on the 18th day of January, 1999 at 9 o'clock A m.  
(year)

Issued under authority of the Internal Revenue Code this \_\_\_\_\_ day of \_\_\_\_\_, 1999.  
(year)

Signature of issuing officer

\_\_\_\_\_  
Revenue Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Group Manager

Signature of approving officer (if applicable)

\_\_\_\_\_  
Title

Part A — to be given to person summoned

**1. Table for Figuring Amount Exempt from Levy on Wages, Salary, and Other Income (Forms 668-W, 668-W(c), & 668-W(c)(DO)) 1999**  
 (Amounts are for each pay period.)

Filing Status: Single								Filing Status: Married Filing Joint (and Qualifying Widow(er)s)							
Pay Period	Number of Exemptions Claimed on Statement							Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6		1	2	3	4	5	6	More Than 6
Daily	27.12	37.69	48.27	58.85	69.42	80.00	16.54 plus 10.58 for each exemption	Daily	38.27	48.85	59.42	70.00	80.58	91.15	27.69 plus 10.58 for each exemption
Weekly	135.58	188.46	241.35	294.23	347.12	400.00	82.69 plus 52.88 for each exemption	Weekly	191.35	244.23	297.12	350.00	402.88	455.77	138.46 plus 52.88 for each exemption
Biweekly	271.15	376.92	482.69	588.46	694.23	800.00	165.38 plus 105.77 for each exemption	Biweekly	382.69	488.46	594.23	700.00	805.77	911.54	276.92 plus 105.77 for each exemption
Semi-Monthly	293.75	408.33	522.92	637.50	752.08	866.67	179.17 plus 114.58 for each exemption	Semi-Monthly	414.58	529.17	643.75	758.33	872.92	987.50	300.00 plus 114.58 for each exemption
Monthly	587.50	816.67	1045.83	1275.00	1504.17	1733.33	358.33 plus 229.17 for each exemption	Monthly	829.17	1058.33	1287.50	1516.67	1745.83	1975.00	600.00 plus 229.17 for each exemption

Filing Status: Unmarried Head of Household								Filing Status: Married Filing Separate							
Pay Period	Number of Exemptions Claimed on Statement							Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6		1	2	3	4	5	6	More Than 6
Daily	35.00	45.58	56.15	66.73	77.31	87.88	24.42 plus 10.58 for each exemption	Daily	24.42	35.00	45.58	56.15	66.73	77.31	13.85 plus 10.58 for each exemption
Weekly	175.00	227.88	280.77	333.65	386.54	439.42	122.12 plus 52.88 for each exemption	Weekly	122.12	175.00	227.88	280.77	333.65	386.54	69.23 plus 52.88 for each exemption
Biweekly	350.00	455.77	561.54	667.31	773.08	878.85	244.23 plus 105.77 for each exemption	Biweekly	244.23	350.00	455.77	561.54	667.31	773.08	138.46 plus 105.77 for each exemption
Semi-Monthly	379.17	493.75	608.33	722.92	837.50	952.08	264.58 plus 114.58 for each exemption	Semi-Monthly	264.58	379.17	493.75	608.33	722.92	837.50	150.00 plus 114.58 for each exemption
Monthly	758.33	987.50	1216.67	1445.83	1675.00	1904.17	529.17 plus 229.17 for each exemption	Monthly	529.17	758.33	987.50	1216.67	1445.83	1675.00	300.00 plus 229.17 for each exemption

**2. Table for Figuring Additional Exempt Amount for Taxpayers at Least 65 Years Old and/or Blind**

Filing Status	*	Daily	Wkly	BiWkly	Semi-Mo	Monthly
Single or Head of Household	1	4.04	20.19	40.38	43.75	87.50
	2	8.08	40.38	80.77	87.50	175.00
Any Other Filing Status	1	3.27	16.35	32.69	35.42	70.83
	2	6.54	32.69	65.38	70.83	141.67
	3	9.81	49.04	98.08	106.25	212.50
	4	13.08	65.38	130.77	141.67	283.33

\*ADDITIONAL STANDARD DEDUCTION claimed on Parts 3, 4, & 5 of levy.

**Examples**

These tables show the amount exempt from a levy on wages, salary, and other income. For example:

1. A single taxpayer who is paid weekly and claims three exemptions (including one for the taxpayer) has \$241.35 exempt from levy.
2. If the taxpayer in number 1 is over 65 and writes 1 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy, \$261.54 is exempt from this levy (\$241.35 plus \$20.19).
3. A taxpayer who is married, files jointly, is paid bi-weekly, and claims two exemptions (including one for the taxpayer) has \$488.46 exempt from levy.
4. If the taxpayer in number 3 is over 65 and has a spouse who is blind, this taxpayer should write 2 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy. Then, \$553.84 is exempt from this levy (\$488.46 plus \$65.38).

# United States District Court

SOUTHERN

DISTRICT OF

OHIO

In the Matter of the Search of

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

## SEARCH WARRANT

Ohio

CASE NUMBER:

9

12 K

Special Agents of the Internal Revenue Service  
TO: Criminal Investigation Division and any Authorized Officer of the United States

Affidavit(s) having been made before me by Lisa DiSalvo, Special Agent who has reason  
Affiant

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

Ohio,

in the Southern District of Ohio there is  
concealed a certain person or property, namely (describe the person or property):

See Attachment A of Affidavit in Support of Application

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

YOU ARE HEREBY COMMANDED to search on or before FEB. 12, 1994  
Date

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

1994 4:00 pm  
Date and Time Issued

at CINCINNATI, OH  
City and State

Name and Title of Judicial Officer

Robert Stainberg  
Signature of Judicial Officer

Dear \_\_\_\_\_,

(Revenue officer)  
(Revenue agent)

It appears to me that special agent CID \_\_\_\_\_ is in violation of the Internal Revenue Code at 26 USC section 6103 and of the federal regulations at 26 CFR section 301.6103 and could be liable for damages under 26 USC section 7431.

Section 1203 of the Restructuring and Reform Act of 1998 states that violations of the Internal Revenue Code of 1986, Department of Treasury regulations, policies of the Internal Revenue Service (including the Internal Revenue Manuals), or violations of any right under the constitution of the United States or various civil rights violations should be grounds for dismissal for the IRS employees. They must be charged with misconduct and terminated if there has been a judicial or final administrative determination that the employee committed any of these, and (or) other acts or omissions. In the event of an unauthorized disclosure, there will be a formal request that the agent responsible be administratively sanctioned according to section 1203 of the Restructuring and Reform Act of 1998.

A violation of the Internal Revenue Code at 26 USC Section 6103 and of the CFR at section 301.6103 would make the said Agent liable for damages under 26 USC section 7431.

This has recently been upheld in Federal Court, Case Number 99-8065, in the state of Florida, resulting in a \$126,000 judgment against the IRS.

I suspect that the said Agent violated the Restructuring and Reform Act of 1998 in dealing with me.

Please send me the necessary paperwork to file a formal complaint so that I can list my grievance along with any helpful information in this area.

Respectfully Yours,

H.R.2676

One Hundred Fifth Congress  
of the  
United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,  
the twenty-seventh day of January, one thousand nine hundred and ninety-  
eight

An Act

To amend the Internal Revenue Code of 1986 to restructure and reform the  
Internal Revenue Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF ESTIMATED TAX  
PENALTIES; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Internal Revenue  
Service Restructuring and Reform Act of 1998''.

(b) Amendment of 1986 Code.--Except as otherwise expressly  
provided, whenever in this Act an amendment or repeal is expressed in  
terms of an amendment to, or repeal of, a section or other provision,  
the reference shall be considered to be made to a section or other  
provision of the Internal Revenue Code of 1986.

(c) Waiver of Estimated Tax Penalties.--No addition to tax shall be  
made under section 6654 or 6655 of the Internal Revenue Code of 1986  
with respect to any underpayment of an installment required to be paid  
on or before the 30th day after the date of the enactment of this Act  
to the extent such underpayment was created or increased by any  
provision of this Act.

(d) Table of Contents.--The table of contents for this Act is as  
follows:

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax  
penalties; table of contents.

TITLE I--REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL  
REVENUE SERVICE

Subtitle A--Reorganization of the Internal Revenue Service

Sec.1001.Reorganization of the Internal Revenue Service.

Sec.1002.Internal Revenue Service mission to focus on taxpayers' needs.

Subtitle B--Executive Branch Governance and Senior Management

Sec.1101.Internal Revenue Service Oversight Board.  
Sec.1102.Commissioner of Internal Revenue; other officials.  
Sec.1103.Treasury Inspector General for Tax Administration.  
Sec.1104.Other personnel.  
Sec.1105.Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C--Personnel Flexibilities

Sec.1201.Improvements in personnel flexibilities.  
Sec.1202.Voluntary separation incentive payments.  
Sec.1203.Termination of employment for misconduct.  
Sec.1204.Basis for evaluation of Internal Revenue Service employees.  
Sec.1205.Employee training program.

TITLE II--ELECTRONIC FILING

Sec.2001.Electronic filing of tax and information returns.  
Sec.2002.Due date for certain information returns.  
Sec.2003.Paperless electronic filing.  
Sec.2004.Return-free tax system.  
Sec.2005.Access to account information.

TITLE III--TAXPAYER PROTECTION AND RIGHTS

Sec.3000.Short title.

Subtitle A--Burden of Proof

Sec.3001.Burden of proof.

Subtitle B--Proceedings by Taxpayers

Sec.3101.Expansion of authority to award costs and certain fees.  
Sec.3102.Civil damages for collection actions.  
Sec.3103.Increase in size of cases permitted on small case calendar.  
Sec.3104.Actions for refund with respect to certain estates which have elected the installment method of payment.  
Sec.3105.Administrative appeal of adverse Internal Revenue Service determination of tax-exempt status of bond issue.  
Sec.3106.Civil action for release of erroneous lien.

Subtitle C--Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec.3201.Relief from joint and several liability on joint return.  
Sec.3202.Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D--Provisions Relating to Interest and Penalties

Sec.3301.Elimination of interest rate differential on overlapping periods of interest on tax overpayments and underpayments.

United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) Effect on Internal Revenue Service Employment Levels.--

(1) Intended effect.--Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) Use of voluntary separations.--The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) In General.--Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) Acts or Omissions.--The acts or omissions referred to under subsection (a) are--

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of--

(A) any right under the Constitution of the United States;

or

(B) any civil right established under--

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing

information from a congressional inquiry;

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) Determination of Commissioner.--

(1) In general.--The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) Discretion.--The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) No appeal.--Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) Definition.--For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

#### SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.--The Internal Revenue Service shall not use records of tax enforcement results--

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) Taxpayer Service.--The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) Certification.--Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

(d) Technical and Conforming Amendment.--Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law ~~100-647~~ 102 Stat. 3734) is repealed.

(e) Effective Date.--This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

#### SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) In General.--Not later than 180 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee

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### What Should You Know About the Privacy Act and Paperwork Reduction Act Notice?

The law says that when we ask you for information we must tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive the information and whether your response is voluntary, needed for a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect the tax, interest, or penalties. Internal Revenue Code sections 6001, 6011, and 6012(a) say that you must file a return or statement with us for any tax for which you are liable. Your response is mandatory under these sections. Code section 6109 says that you must show your social security number on what you file, so we know who you are and can process your return and other papers. You must fill in all parts of the tax form that apply to you. However, you do not have to check the boxes for the Presidential Election Campaign Fund.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws.

If you do not file a return, do not give the information asked for, or give false information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on your tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

**The Time It Takes To Prepare Your Return.** We try to create forms and instructions that can be easily understood. The time needed to complete and file the forms in the chart below will vary depending on individual circumstances.

The estimated average time for people with IRA distributions, pension income, social security benefits, etc., is: **Recordkeeping**, 2 hr., 17 min.; **Learning about the law or the form**, 2 hr., 20 min.; **Preparing the form**, 3 hr., 13 min.; **Copying, assembling, and sending the form to the IRS**, 35 min.; **Total**, 8 hr., 25 min.

**We Welcome Comments on Forms.** If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can e-mail us your suggestions and comments through the IRS Internet Home Page ([www.irs.ustreas.gov](http://www.irs.ustreas.gov)) or write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001.

**DO NOT** send your return to this address. Instead, see **Where Do You File?** on the back cover.

Who pays

8:25

Handwritten arrows and 'X' marks on the left margin.

#### Estimated Preparation Time

The time needed to complete and file Form 1040A and its schedules will vary depending on individual circumstances.		The estimated average times are:			
Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS	Totals
Form 1040A	1 hr., 4 min.	2 hr., 8 min.	3 hr., 4 min.	35 min.	6 hr., 51 min.
Sch. 1	20 min.	4 min.	10 min.	20 min.	54 min.
Sch. 2	33 min.	10 min.	40 min.	28 min.	1 hr., 51 min.
Sch. 3	13 min.	14 min.	25 min.	35 min.	1 hr., 27 min.
Sch. EIC	0 min.	2 min.	4 min.	20 min.	26 min.

Handwritten note: "I valid expiration date"

**Disclosure, Privacy Act, and Paperwork Reduction Act Notice**

The IRS Restructuring and Reform Act of 1998, the Privacy Act of 1974, and Paperwork Reduction Act of 1980 require that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 requires that you provide your social security number or individual taxpayer identification number on what you file. This is so we know who you are, and can process your return and other papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund or provide your daytime telephone number.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Generally, tax returns and return information are confidential, as stated in Code section 6103. However, Code section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may also disclose your tax information to Committees of Congress; Federal, state, and local child support agencies; and to other Federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

**The Time It Takes To Prepare Your Return**

We try to create forms and instructions that can be easily understood. Often this is difficult to do because our tax laws are very complex. For some people with income mostly from wages, filling in the forms is easy. For others who have businesses, pensions, stocks, rental income, or other investments, it is more difficult.

**We Welcome Comments on Forms**

If you have comments concerning the accuracy of the time estimates shown below or suggestions for making these forms simpler, we would be happy to hear from you. You can e-mail us your suggestions and comments through the IRS Internet Home Page ([www.irs.gov/help/email.html](http://www.irs.gov/help/email.html)) or write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send your return to this address. Instead, see the back cover.

**Estimated Preparation Time**

The time needed to complete and file Form 1040, its schedules, and accompanying worksheets will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS	Totals
Form 1040	3 hr., 15 min.	2 hr., 39 min.	6 hr., 22 min.	35 min.	12 hr., 51 min.
Sch. A	3 hr., 5 min.	40 min.	1 hr., 34 min.	20 min.	5 hr., 39 min.
Sch. B	33 min.	8 min.	24 min.	20 min.	1 hr., 25 min.
Sch. C	6 hr., 26 min.	1 hr., 11 min.	2 hr., 7 min.	35 min.	10 hr., 19 min.
Sch. C-EZ	46 min.	4 min.	34 min.	20 min.	1 hr., 44 min.
Sch. D	1 hr., 4 min.	2 hr., 16 min.	1 hr., 39 min.	35 min.	5 hr., 34 min.
Sch. D-1	13 min.	1 min.	11 min.	35 min.	1 hr.
Sch. E	2 hr., 52 min.	1 hr., 7 min.	1 hr., 16 min.	35 min.	5 hr., 50 min.
Sch. EIC	-----	2 min.	14 min.	20 min.	36 min.
Sch. F:					
Cash Method	4 hr., 2 min.	36 min.	1 hr., 14 min.	20 min.	6 hr., 12 min.
Accrual Method	4 hr., 22 min.	25 min.	1 hr., 19 min.	20 min.	6 hr., 26 min.
Sch. H	46 min.	30 min.	52 min.	35 min.	2 hr., 43 min.
Sch. J	20 min.	7 min.	50 min.	20 min.	1 hr., 37 min.
Sch. R	20 min.	15 min.	29 min.	35 min.	1 hr., 39 min.
Sch. SE:					
Short	20 min.	14 min.	13 min.	14 min.	1 hr., 1 min.
Long	13 min.	20 min.	34 min.	20 min.	1 hr., 27 min.

Name ..... Date .....

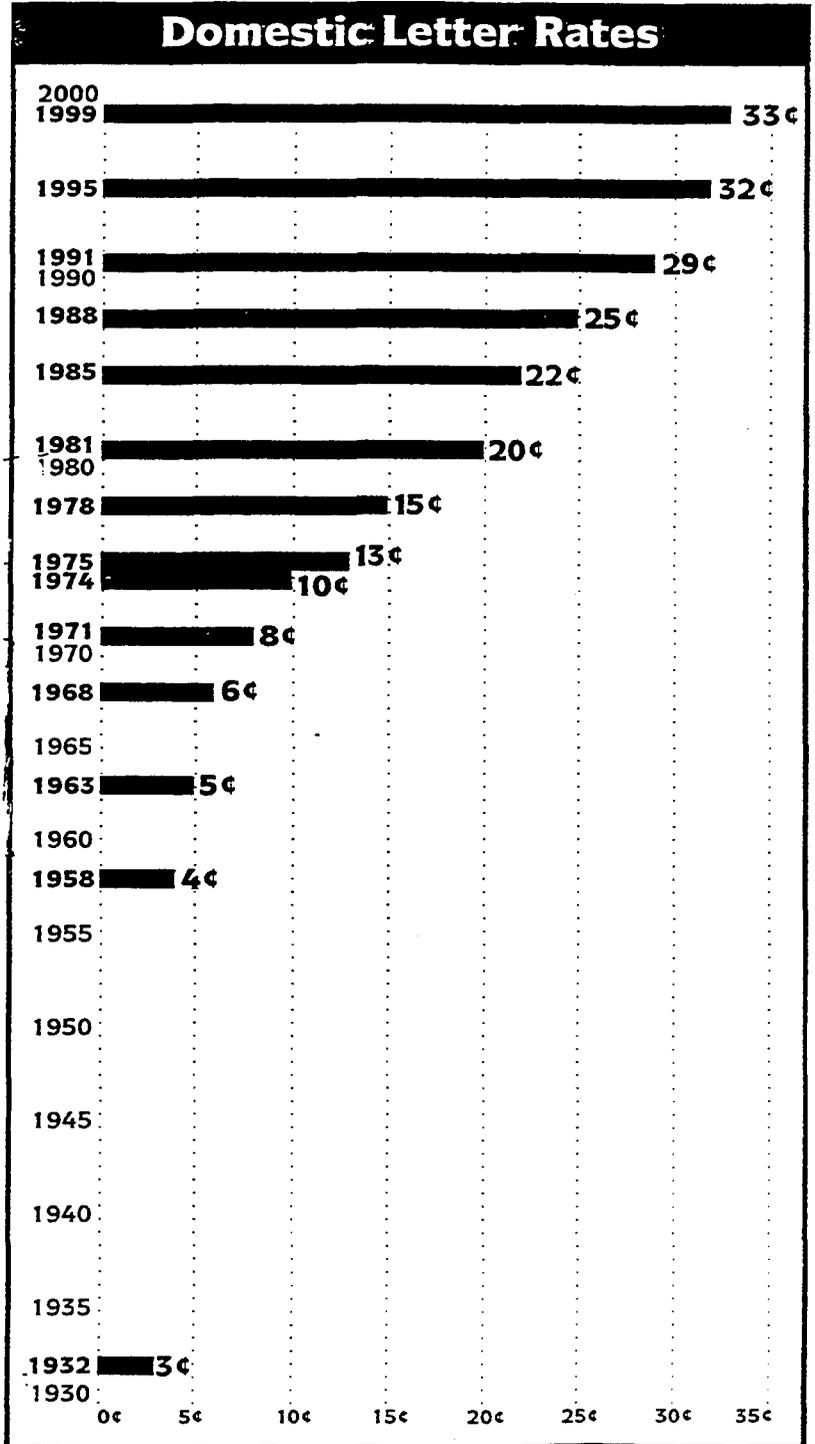
# STAMP PRICES ON THE RISE

This month the cost of mailing a letter in the U.S. went up to 33¢. The graph below shows how the cost has changed since 1930. Study the graph and answer the questions below.

1. During what year did the cost of mailing a letter first rise to more than 10¢? \_\_\_\_\_
2. Did the price of mailing a letter double between 1981 and 1988? \_\_\_\_\_
3. During which decade did the price of mailing a letter have a greater increase—from 1960-70 or from 1970-80? \_\_\_\_\_
4. By how much did the price of mailing a letter increase from 1932 to 1981? \_\_\_\_\_
5. Has the price of mailing a letter ever decreased since 1932? \_\_\_\_\_

**Answer on the back:**

6. Judging from the graph's data, would you expect the price of mailing a letter to remain at 33¢ for the next five years? Why or why not?
7. Prior to 1863 the postal service used to charge according to the distance a letter was travelling. Do you think they should return to this system? Why or why not?



## IRS code sections 6001, 6011, and 6012(a)

According to the IRS, their legal right to ask for information is IRC 6001, 6011, and 6012(a) and their regulations. They say that you must "file a return or statement with us for any tax you are liable for." (Quoted from page 51, of the 1040 Instructional Booklet, 1998).

Does that mean you have to file a return for taxes that you are NOT liable for?

Does it state **who** is liable? Who *is* liable?

Does it state what liability is? What *is* liability?

Does this state that this is their right to ask you for information?

Does it state **from whom** information may be requested?

Does it state from whom information can actually be requested under these laws?

Does it state exactly what type of information they can request?

Do these code sections list the consequences of being liable?

Do these code sections state that you are made liable somewhere else in the code?

Were you ever notified by the Commissioner or District Director to keep books and records?

Do these sections state that you are required to make such returns, render such statements, or keep such records?

If so, which records, which statements and which returns are required?

Do these code sections apply to employers?

Do these code sections state employers are liable for a tax?

Do these code sections establish liability elsewhere in the code?

Do these sections apply to internal revenue tax, income tax, excise tax, or any BATF type of tax?

What are the implementing regulations for these sections of the code?

Who is to administer these sections of the code: IRS, or BATF?

How much are they going to pay you to maintain all those books and records and then to store them?

**Informational IRS Seminars are available by contacting:**

VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221

Sec. 805(e), redesignated former par. (2)(c) as par. (2)(D) in subsec. (m) and amended that portion of subsec. (m) as preceded par. (2)(D) (as redesignated), for remuneration paid after 12/31/69. Prior to amendment the portion of subsec. (m) preceding par. (2)(D) read as follows:

"(m) *Withholding allowances based on itemized deductions.*

"(1) General rule. An employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages in a number equal to the number determined by dividing by \$700 the excess of—

"(A) his estimated itemized deductions, over

"(B) an amount equal to the sum of 10 percent of the first \$7,500 of his estimated wages and 17 percent of the remainder of his estimated wages.

For purposes of this subsection, fractional numbers shall not be taken into account.

"(2) Definitions. For purposes of this subsection—

"(A) Estimated itemized deductions. The term "estimated itemized deductions" means the aggregate amount which he reasonably expects will be allowable as deductions under chapter 1 (other than the deductions referred to in sections 141 and 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62) for the estimation year. In no case shall such aggregate amount be greater than (i) the amount of such deductions shown on his return of tax under subtitle A for the taxable year preceding the estimation year, or (ii) in the case of an employee who did not show such deductions on his return for such preceding taxable year, an amount equal to the lesser of \$1,000 or 10 percent of the wages shown on his return for such preceding taxable year.

"(B) Estimated wages. The term "estimated wages" means the aggregate amount which he reasonably expects will constitute wages for the estimation year. In no case shall such aggregate amount be less than the amount of wages shown on his return for the taxable year preceding the estimation year."

... Sec. 805(f)(1), added subsec. (n), for wages paid after 4/30/70.

... Sec. 805(g), added subsec. (o), for payments made after 1/31/70 and subsec. (p), for payments made after 6/30/70.

In '69, P.L. 91-53, Sec. 6, amended Code Sec. 3402(a)(1) by changing July 31, 1969 to December 31, 1969 and subssecs. (a)(2) and (c)(6) by changing August 1, 1969 to January 1, 1970.

—P.L. 91-36, Sec. 2(a), amended Code Sec. 3402(a)(1) by changing June 30, 1969 to July 31, 1969, by changing July 1, 1969 to August 1, 1969 in subsec. (a)(2), and by changing July 1, 1969 to August 1, 1969 in subsec. (c)(6).

In '68, P.L. 90-364, 6/23/68, Sec. 102(c), amended Code Sec. 3402 by adding par. (1) before the first table of subsec. (a), by adding par. (2) followed by tables 1 through 8, applicable to wages paid after the 15th day after the date of the enactment of the Revenue and Expenditure Control Act of 1968 and before July 1, 1969, at the end of subsec. (a), and by adding par. (6) to the end of subsec. (c).

In '66, P.L. 89-368, Sec. 101, rewrote subssecs. (a) and (b)(1) ... changed the withholding tables in subsec. (c) ... added subsec. (f)(1)(F) ... added May 1 and October 1 as status determination dates in subsec. (f)(3)(B) ... and added subssecs. (1) and (m), for remuneration paid after 4/30/66 except that "notwithstanding section 3402(f)(3)(B) of the Internal Revenue Code of 1954, a withholding exemption certificate furnished the employer after the date of the enactment [3/15/66] of this Act and before May 1, 1966, shall take effect with respect to the first payment of wages made on or after May 1, 1966, or the 10th day after the date on which such certificate is furnished to the employer, whichever is later, and at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is furnished.

Prior to amendment, subssecs. (a) and (b)(1) and the withholding tables read as follows:

"(a) *Requirement of withholding.*

"Every employer making payment of wages shall deduct and withhold upon such wages (except as provided in subsection (j) and (k) a tax equal to 14 percent of the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in subsection (b)(1).

"(b) *Percentage method of withholding.*

"(1) The table referred to in subsection (a) is as follows:

"PERCENTAGE METHOD WITHHOLDING TABLE

Payroll period	Amount of one withholding exemption
Weekly	\$13.00
Biweekly	26.00
Semimonthly	28.00
Monthly	56.00
Quarterly	167.00
Semiannual	333.00
Annual	667.00
Daily or miscellaneous (per day of such period)	1.80"

[The previous tables are not reproduced]

In '65, P.L. 89-212 inserted "for section 3202(c)(2)" and "for section 3202(a)" in subsec. (k), for tips received after '65.

—P.L. 89-97, Sec. 313, added subsec. (k) and made reference to (k) in subssecs. (a) and (h)(3), for tips received by employees after '65.

In '64, P.L. 88-272, Sec. 302, reduced the tax from 18% to 14% in subsec. (a) and substituted new tables reflecting the lower rates in (c)(1), for remuneration paid after 3/4/64. For the previous tables, see below.

In '61, P.L. 87-256 added subsec. (f)(b) for wages paid after '61.

In '55, P.L. 306 inserted "(except as provided in subsection (j))" after "upon such wages" in subsec. (a) and added subsec. (j) for remuneration paid after 8/9/55.

### Sec. 3403. Liability for tax.

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment.

### Sec. 3404. Return and payment by governmental employer.

If the employer is the United States, or a State, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

In '76, P.L. 94-455, Sec. 1903(c), deleted "Territory," each place it appeared in Code Sec. 3404, for wages paid after '76.

### Sec. 3405. Special rules for pensions, annuities, and certain other deferred income.

#### (a) Pensions, annuities, etc.

(1) **Withholding as if payment were wages.** The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

(2) **Election of no withholding.** An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

(3) **When election takes effect.** Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

(4) **Amount withheld where no withholding exemption certificate in effect.** In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

#### (b) Nonperiodic distribution.

(1) **Withholding.** The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

#### (2) Amount of withholding.

(A) Distributions which are not qualified total distributions. In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

## Amendments

P.L. 101-508, § 11622(a):

Act Sec. 11622(a) amended chapter 77 by adding at the end thereof new Code Sec. 7523 to read as above.

The above amendment applies to instructions prepared for tax years beginning after 1990.

## CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

SUBCHAPTER A.	Examination and inspection.
SUBCHAPTER B.	General powers and duties.
SUBCHAPTER D.	Possessions.

### Subchapter A—Examination and Inspection

Sec. 7601.	Canvass of districts for taxable persons and objects.
Sec. 7602.	Examination of books and witnesses.
Sec. 7603.	Service of summons.
Sec. 7604.	Enforcement of summons.
Sec. 7605.	Time and place of examination.
Sec. 7606.	Entry of premises for examination of taxable objects.
Sec. 7608.	Authority of internal revenue enforcement officers.
Sec. 7609.	Special procedures for third-party summonses.
Sec. 7610.	Fees and costs for witnesses.
Sec. 7611.	Restrictions on church tax inquiries and examinations.
Sec. 7612.	Cross references.

## [Sec. 7601]

#### SEC. 7601. CANVASS OF DISTRICTS FOR TAXABLE PERSONS AND OBJECTS.

## [Sec. 7601(a)]

(a) GENERAL RULE.—The Secretary shall, to the extent he deems it practicable, cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects with respect to which any tax is imposed.

## Amendments

P.L. 94-455, § 1906(b)(13)(A):

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective February 1, 1977. Effective on 2-1-77.

## [Sec. 7601(b)]

## (b) PENALTIES.—

For penalties applicable to forcible obstruction or hindrance of Treasury officers or employees in the performance of their duties, see section 7212.

## [Sec. 7602]

#### SEC. 7602. EXAMINATION OF BOOKS AND WITNESSES.

## [Sec. 7602(a)]

(a) AUTHORITY TO SUMMON, ETC.—For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employe of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

**Amendments**

P.L. 97-248, § 333(a):

Amended Code Sec. 7602 by striking out "For the purpose" and inserting "(a) Authority to Summon, Etc.—For the purpose", effective on September 4, 1982

P.L. 94-455, § 1906(b)(13)(A):

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective on 2-1-77.

**[Sec. 7602(b)]**

(b) **PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.**—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

**Amendments**

P.L. 97-248, § 333(a):

Added Code Sec. 7602(b) to read as above, effective September 4, 1982.

*\*VS\* Income tax laws***[Sec. 7602(c)]**

(c) **NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.**—

(1) **LIMITATION OF AUTHORITY.**—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

(2) **JUSTICE DEPARTMENT REFERRAL IN EFFECT.**—For purposes of this subsection—

(A) **IN GENERAL.**—A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

(B) **TERMINATION.**—A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation,

(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

(3) **TAXABLE YEARS, ETC., TREATED SEPARATELY.**—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.

**Amendments**

P.L. 97-248, § 333(a):

Added Code Sec. 7602(c) to read as above, effective on September 4, 1982

[Sec. 7603]

**SEC. 7603. SERVICE OF SUMMONS.**

A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by the Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. Where the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

**Amendments**

**P.L. 100-647, § 1017(c)(9):**

Act Sec. 1017(c)(9) amended Code Sec. 7603 by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

The above amendment is effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which it relates.

**P.L. 99-514, § 1703(e)(2)(G):**

Act Sec. 1703(e)(2)(G) amended Code Sec. 7603 by striking out "6427(i)(2)" and inserting in lieu thereof "6427(j)(2)".

The above amendment applies to gasoline removed (as defined in Code Sec. 4082, as amended) after December 31, 1987.

**P.L. 98-369, § 911(d)(c)(2)(G):**

Act Sec. 911(d)(c)(2)(G) amended Code Sec. 7603 by striking out "6427(h)(2)" and inserting in lieu thereof "6427(i)(2)". Effective on 8-1-84.

**P.L. 97-424, § 515(b)(12):**

Amended Code Sec. 7603 by striking out "6424(d)(2)," before "6427(h)(2)". Effective on 1-6-83.

**P.L. 96-223, § 232(d)(4)(E):**

Amended Code Sec. 7603 by substituting "6427(h)(2)" for "6427(g)(2)". Effective on 1-1-79.

**P.L. 95-599, § 505(c)(5), (d):**

Substituted "6427(g)(2)" for "6427(f)(2)" in Code Sec. 7603, effective January 1, 1979.

**P.L. 94-530, § 1(c)(6):**

Substituted "6427(f)(2)" for "6427(e)(2)" in Code Sec. 7603. Effective on 10-1-76.

**P.L. 94-455, § 1906(b)(13)(A):**

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective on 2-1-77.

**P.L. 91-258, § 207(d)(9):**

Amended Code Sec. 7603 by adding "6427(e)(2)" in the first line. Effective on 7-1-70.

**P.L. 89-44, § 202(c)(4):**

Amended Sec. 7603 by inserting "6424(d)(2)," after "6421(f)(2)". Effective on 1-1-66.

**P.L. 627, 84th Cong., 2d Sess., § 208(d)(4):**

Amended Sec. 7603 by inserting after "section 6420(e)(2)" the following: ", 6421(f)(2)". Effective on 7-1-56.

**P.L. 466, 84th Cong., 2d Sess., § 4(i):**

Amended Code Sec. 7603 by striking out the words "section 7602" in the first sentence and inserting in lieu thereof the words "section 6420(e)(2) or 7602".

[Sec. 7604]

**SEC. 7604. ENFORCEMENT OF SUMMONS.**

[Sec. 7604(a)]

(a) **JURISDICTION OF DISTRICT COURT.**—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

[Sec. 7604(b)]

(b) **ENFORCEMENT.**—Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

**Amendments**

**P.L. 100-647, § 1017(c)(9):**

Act Sec. 1017(c)(9) amended Code Sec. 7604(b) by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

The above amendment is effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which it relates.

**P.L. 99-514, § 1703(e)(2)(G):**

Act Sec. 1703(e)(2)(G) amended Code Sec. 7604(b) and (c)(2) by striking out "6427(i)(2)" and inserting in lieu thereof "6427(j)(2)".

The above amendment applies to gasoline removed (as defined in Code Sec. 4082, as amended) after December 31, 1987.

## YOUR LIABILITY DEPENDS ON A TAXING STATUTE

General demands for filing tax returns, production of records, examination of books, imposition and payment of tax, etc., are of no consequence to the point a taxing statute (1) defines what tax is being imposed, and (2) the basis of liability. In other words, even if the Internal Revenue Service was a legitimate agency of the United States Department of the Treasury and had authority in the several States, the Service would have to be specific with respect to what tax was at issue and would have to demonstrate the tax by citing a taxing statute with the necessary elements to establish that any given person was obligated to pay any given tax.

This mandate has been clarified by the courts numerous times, with the matter definitely stated by the Tenth Circuit Court of Appeals in United States v. Community TV, Inc. 327 F.2d 797, at p. 800 (1964):

Without question, a taxing statute must describe with some certainty the transaction, service, or object to be taxed, and in the typical situation it is construed against the Government, Hassett v. Welch, 303 U.S. 303, 58 S. Ct. 559, 82 L.Ed. 858

In other words, to the point Service personnel produce the statute which mandates a certain tax and which specifies, "... the transaction, service, or object to be taxed..." the burden of proof lies with the Government, with the consequence being that no obligation or civil or criminal liability can ensue to the point a taxing statute that meets the above requirements is in evidence.

This conclusion is supported by the statute which provides the underlying requirements for keeping records, making statements, etc., located at 26 USC sec. 6001: Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgement of the Secretary it is necessary, he may require any person, by notice served upon such person, or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employee shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053 (C), and copies of statements furnished by employees under section 6053 (a).

The control statute for Subtitle F, Chapter 61, Subchapter A, Part I, concerning records, statements, and special returns, clearly returns the matter to the "employee" defined at Sec. 3401 (C), and the "employer" defined at Sec 3401(d). In general, however, (1) the Secretary must provide direct notice to whomever is required to keep books, records, etc., as being the "person liable," or (2) specify the person liable by regulation. In the absence of notice by the Secretary, based on a taxing statute which makes such a person liable according to provisions stipulated in Unite States v. Community TV, Inc., Hassett v. Welch, and other such cases, or regulations which specifically set establish general liability, there is no liability.

Sec. 6001 also exempts "employees" from keeping records except where tips and the like are concerned. This is consistent with constructive demonstration that "employers" rather than "employees" are required to file returns, as opposed to paying deducted amounts as income tax returns, constructively demonstrated in a previous section of this memorandum and specifically articulated in 26 CFR sec 601.104.

Clarification via 26 USC sec 6053(a) is as follows: (a) REPORTS BY EMPLOYEES.

— Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) or which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10<sup>th</sup> day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10<sup>th</sup> day, in such form and manner, as may be prescribed by the Secretary.

Unraveling Sec. 6001 straightens out the meaning of Sec. 6011, which requires filing returns, statements, etc., by the person made liable (Sec. 3401(d)), as distinguished from the person required to make returns (payments) at Sec. 6012 (sec. 3401(c)). Even though a person might be a citizen or resident of the United States employed by an agency of the United States, and thereby be required to return a prescribed amount of United States – source income, he is not the person liable under Sec. 6011 and attending regulations.

The “method of assessment” prescribed at 26 USC Sec. 6303 is therefore dependent on the taxing statute and must rest on authority specifically conveyed by a taxing statute which prescribes liability where the Secretary (1) has provided specific notice, including the statute and type of tax being imposed, or (2) supports assessment by regulatory application. In the absence of one or the other, an assessment by the Secretary is of no consequence as it is not legally obligating.

The requirement for the Secretary to provide notice to whomever is responsible for collecting tax, keeping records, etc., is clarified at 26 CFR Sec. 301.7512-1, particularly (a)(1)(i), relating to “employee tax imposed by section 3101 of chapter 21 (Federal Insurance Contributions Act),” and (a)(1)(iii), relating to “income tax required to be withheld on wages by section 3402 of chapter 24 (Collection of Income Tax at Source on Wages)... “ The person liable is the employer or the employer’s agent, and of particular significance, it is this “person” who is subject to civil and particularly criminal penalties (26 CFR sec 301.7513-1(f); 26 CFR Secs. 301.7207-1 & 301.7214-1, etc.). Officers and employees of the United States are specifically identified as being liable at 26 USC Sec. 301.7214-1.

The matter of who is required to register, apply for licenses, or otherwise collect and/or pay taxes imposed by the Internal Revenue Code is ultimately and finally put to rest under “Licensing and Registration”, 26 USC Secs. 301.7001-1, et seq. Each of the categories so addressed has liability based on some particular taxing statute that creates liability.

**Please provide me a copy of the taxing statute that makes me liable for the tax!**

For more information contact: VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221

# IRS AND EMPLOYERS

Under Subtitle C, chapters 21 to 25 of Title 26 USC, Employers are authorized by statute to withhold Employment taxes under subtitle C, 26 USC 3402.

Employers are requested using the W-4 under 26 USC 3402(p) to withhold Income tax (imposed in Subtitle a) from citizens.

Under Subtitle A, chapters 1 to 6 of Title 26 USC the statutory authority to withhold income tax is granted to withholding agents, NOT employers!

In title 26 USC section 7701(a)(16), we find 'withholding agent' defined where the agent is authorized to deduct and withhold from foreigners, and only foreigners! (Exactly as the tax was authorized and collected for the first 16 years (1916-1932) of its existence as an excise tax under the 16<sup>th</sup> amendment).

The only code sections that exist in 26 USC that actually specify or establish liability for tax are section 1461 "Liability for withheld tax" and Section 3463, "Liability for tax".

26 CFR 602.101 shows that the form required reveals the true extent of any liability that may be imposed under Section 1 of Title 26 as being limited to a liability for "taxable income", earned in foreign countries under foreign tax treaties, which is a Privileged source of income and therefore, subject to the indirect excise income tax.

By what exact statutory authority does your employer withhold tax from you? Before anyone can take your money they better have a statutory authority to do so. If they do not, are they then attempting to perpetrate a theft of your money through fraud?!

No withholding, no liability, no return, no penalties, no enforcement actions because no tax is due if you are not a backup withholding agent.

If you have documented proof to the contrary, please send it to us immediately.

*You may wish to order informational IRS Seminars, Level I, II, or III (includes manual, videos, and audios)*

**Contact:** \_\_\_\_\_

Complete catalog of valuable IRS information available.

**VIP, Box 463, Owensville, Ohio 45160 (513) 641-2221 (complete catalog of IRS information available)**

4. The authority vested in the Commissioner by 31 CFR 103.46(a)(8), to assure compliance with the requirements of 31 CFR Part 103 by those financial institutions not referenced in 31 CFR 103.46(a)(1) through 103.46(a)(6), is hereby delegated pursuant to 31 CFR 103.46(a)(8) and 26 CFR 301.7701-9(c) to the Assistant Commissioner (Examination) and to the Chiefs, Examination Division (District Directors in districts with no Chief, Examination Division) and Chief, Examination Division, Office of Taxpayer Service and Compliance, Assistant Commissioner (International). This authority may be redelegated by the Assistant Commissioner (Examination) and the Chiefs, Examination Division (District Directors in districts where there is no Chief, Examination Division) but may not be further redelegated.

5. The authority vested in the Commissioner by Treasury Directive 15-41, specifically to disseminate copies of the reports required by Department of the Treasury regulations (31 CFR Part 103), issued to implement 31 U.S.C. 5319, is delegated to the officials listed below. The exercise of this authority is subject to the Dissemination Policies and Guidelines for the Release of Information Reported under the Provisions of the Bank Secrecy Act issued by the Assistant Secretary of the Treasury (Enforcement). This authority may not be redelegated.

- a. Assistant Commissioner (Criminal Investigation)
  - b. District Directors and Assistants,
  - c. Special Assistant for Enforcement, Detroit Computing Center, and
  - d. Chiefs, Criminal Investigation Division.
- In Assistant Commissioner (International) this authority will be exercised as it relates to tax treaty partners or tax executive agreement.

6. Delegation Order No. 143 (Rev. 4), effective April 4, 1990, is superseded.

/s/ David G. Blattner  
Chief Operations Officer

Order No. 144 (Rev. 2)  
Effective date: 5-12-88

**Authority to Issue Transfer  
Certificates in Certain Estate Tax  
Cases**

1. The authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7701-9 and 26 CFR 20.6325-1(c) to issue transfer certificates in certain estate tax cases is hereby delegated to the Assistant Commissioner (International), District Directors and the Director, Philadelphia Service Center.

2. The authority delegated herein may be redelegated only by the officials specified in this Order and may not be further redelegated.

3. This Order supersedes Delegation Order No. 144, (Rev. 1), issued March 21, 1982.

/s/ James I. Owens  
Deputy Commissioner

Order No. 152 (Rev. 3)  
Effective date: 10-4-90

**Collections from Employees of  
the Internal Revenue Service**

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Order 150-15, Service Center Directors and the Director, Austin Compliance Center are hereby authorized to issue a notice and demand for payment of any funds due the United States from any employee of the Internal Revenue Service who fails to account for and pay over any amount of money or property collected or received by them in connection with Internal Revenue Laws. If payment is not received within the time limit prescribed by the notice and demand, the unpaid amount is deemed assessed as of the date of the notice and appropriate action will be taken as required by subsection 7803(c) of the Internal Revenue Code.

The authority herein delegated may not be redelegated.

Delegation Order No. 152 (Rev. 2), effective July 22, 1988, is superseded.

/s/ Charles H. Brennan  
Deputy Commissioner (Operations)

Order No. 153 (Rev. 1)  
Effective date: 11-15-94

**Nationwide Authority to Make  
Determinations on Certain Oil  
Related Issues**

Pursuant to authority vested in the Commissioner of Internal Revenue by IRC 7802, 26 CFR 1.482 and Treasury Department Order 150-10, the nationwide authority to determine

- A. Intercompany and intracompany transfer prices of foreign-produced crude oil and products refined therefrom, and

- B. The acceptance of the average freight rate assessment (AFRA) and/or other freight rate determination methods as an intercompany charge for shipping of foreign-produced crude oil and products is hereby delegated to the Regional Commissioner, Southwest Region.

MT 1229-210

Order No. 153

IR Manual

## LEGISLATIVE HISTORY

P.L. 96-511 [PAGE 2]

### I. PURPOSE AND SUMMARY

The Paperwork Reduction takes statutory steps needed to reduce and minimize the burden Government paperwork imposes on the public. The purposes of the bill are to:

- (1) Minimize the Federal paperwork burden for individuals, businesses-in particular, small business -State and local governments, and other person;
- (2) Minimize the cost to the Federal Government of collecting, maintaining, using and disseminating information;
- (3) Maximize the usefulness of information collected;
- (4) Coordinate and integrate Federal information policies and practices; and
- (5) Ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government to improve service delivery and program management, increase productivity, and reduce the information processing burden for both the Government and the public.

The bill-

Establishes a goal to reduce the 1980 paperwork burden existing today by twenty-five percent in three years.

Creates an institutional framework to carry out recommendations of the Commission on Federal Paperwork.

Consolidates within the Director of OMB and the Office of Information and Regulatory Affairs the following information management policy functions: general information, paperwork clearance, statistical activities, records management, privacy, and automatic data processing and telecommunications.

Ensures that paperwork required from the public is first checked to see whether information requested is:

- (1) Needed;
- (2) Not duplicative; and
- (3) Collected efficiently.

The Director of OMB will be accountable for this checking and will be responsible for preventing duplicate and unnecessary paperwork burdens.

Requires all information requests of the public to display a control number, an expiration date, and indicate why the information is needed, how it will be used, and whether it is a voluntary or mandatory request. Requests which do not reflect a current OMB control number or fail to state why not, are "bootleg" requests and may be ignored by the public.

Establishes a Federal Information Locator System to:

- (1) Identify duplication in agencies reporting and record keeping requirements;
- (2) Locate existing information that may meet the needs of Congress, executive agencies, and the public; and
- (3) Assist in deciding which agency requests for information collection should be approved.

Rewrites the original Federal Reports Act of 1942 and eliminates all agency exemptions to the Act except the Federal Election Commission. A disapproval of an information request of the

## LEGISLATIVE HISTORY

P.L. 96-511 [PAGE 52]

should be available, upon payment of a reasonable fee, to state and local governments, and members of the general public. The Director is to ensure that no actual data collected by Federal agencies are contained within the System.

### SECTION 3512. PUBLIC PROTECTION

The purpose of this section is to protect the public from the burden of collections of information which have not been subjected to the clearance process described by section 3507. Information collection requests which do not display a current control number or not, indicate why not are to be considered "bootleg" requests and may be ignored by the public.

Section 3504 (c) (3) (A) requires the Director to ensure that all information collection requests display a control number. Section 3507 (f) declares that an agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed. Section 3506 (c) (5) requires each agency to ensure that information collection requests specifically required by law or to obtain a benefit and submitted to nine or fewer persons contain a statement to inform the person receiving the request that the request is not subject to the clearance requirements of section 3507.

Section 3542 states, notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain information for or provide information to an agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director, or fails to state that such request is not subject to this Act. These are the only circumstances under which a person may justify the failure to maintain information for or provide to any agency otherwise required, by reliance on this Act.

If an information collection request displays a current control number or states that the request is not subject to this Act, it is valid for the purposes of this Act.

The protection provided by this section does not go into effect until December 31, 1981 in order to provide agencies adequate time to comply with the provisions of this Act.

The term "current control number" is used to ensure that the public is also protected from information collection requests which may display a control number that is expired. Section 3504 (c) (3) (A) mandates that the Director ensure information collection requests display an expiration date when appropriate. Consistent with the provisions of section 3507 (b), (c), (d), and (g), all control numbers are to be assigned by the Director and are valid for a period not to exceed three years.

The only collections of information by a Federal agency which are exempted, and for which a person or persons could not claim protection under section 3512, are those collections of information which this chapter does not apply to and are exempted by section 3518. They are collections of information:

(1) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

Department of the Treasury — Internal Revenue Service  
**Employer Appointment of Agent**  
 Under Section 3504 of the Internal Revenue Code  
*(For use by employers or payers)*

1. To  
  
 Director  
 \_\_\_\_\_ Service Center

**Instructions**  
 Employer or Payer: Please complete this form and give it to the agent.  
  
 Agent: Please attach a letter requesting authority to do either all that is required of the employer for wages you pay on the employer's behalf or all that is required of the payer for requirements of backup withholding. *(See applicable Revenue Procedures 70-6 or 84-33.)* Forward both the letter of request and Form 2678 to the Director of the Internal Revenue Service Center where you file your returns. *(See reverse side for addresses.)*

Note: Rev. Proc. 70-6 is available in Publication 1271 and Rev. Proc. 84-33 is available in Publication 1272.

2. Employer's or Payer's name  
 3. Employer's or Payer's address *(Number and street, city, town or post office, State and ZIP code)*  
 4. Employer identification number

5. Agent's name  
 6. Agent's address *(Number and street, city, town or post office, State and ZIP code)*  
 7. Agent's employer identification number

8. Effective for *(Check the box or boxes that apply)*  
 Employment taxes *(Rev. Proc. 70-6)*  
 Backup withholding *(Rev. Proc. 84-33)*  
 9. If filing under Rev. Proc. 70-6, does this apply to all employees?  
 Yes  No  
 10. Effective date of appointment by employer or payer

Under section 3504 of the Internal Revenue Code, please authorize this agent to do all that is required under *(Check the one(s) that apply)*  
 Signature of employer or payer \_\_\_\_\_ Date \_\_\_\_\_

- Chapter 21 *(FICA)*
- Chapter 22 *(Railroad Retirement)*
- Chapter 24—
  - Withholding and/or
  - Backup withholding
- Chapter 25 *(General Provisions)* of Subtitle C

Title of signing official *(Indicate whether the person signing is an owner, partner, member of firm, fiduciary, or a corporate officer.)*

The agent named above has been appointed either to pay wages for employers and/or report and deposit backup withholding amounts for payers. This appointment is effective on the date shown in Item 10.

It is understood that the agent and the employer or payer are subject to all provisions of law and regulations *(including penalties)* which apply to employers or payers.

**For Internal Revenue Service Use Only**

Effective date granted by IRS ▶

For the Paperwork Reduction Act Notice, please see the back of this form.



# U.S. Corporation Income Tax Return

OMB No. 15-0123

For calendar year 1994 or tax year beginning ....., 1994, ending ....., 19 ...  
 ▶ Instructions are separate. See page 1 for Paperwork Reduction Act Notice.

**1994**

<b>A</b> Check if a: 1 Consolidated return (attach Form 851) <input type="checkbox"/> 2 Personal holding co. (attach Sch. PH) <input type="checkbox"/> 3 Personal service corp. (as defined in Temporary Regs. sec. 1.441-4T—see instructions) <input type="checkbox"/>	<b>Use IRS label. Otherwise, please print or type.</b>	<b>Name</b> _____ <b>Number, street, and room or suite no. (if a P.O. box, see page 6 of instructions.)</b> _____ <b>City or town, state, and ZIP code</b> _____	<b>B Employer identification number</b> _____ <b>C Date incorporated</b> _____ <b>D Total assets (see Specific Instructions)</b> _____
--	--	---	---

**E** Check applicable boxes: (1)  Initial return (2)  Final return (3)  Change of address \$ \_\_\_\_\_

<b>Income</b>	1a	Gross receipts or sales		b	Less returns and allowances		c	Bal ▶	1c	
	2	Cost of goods sold (Schedule A, line 8)							2	
	3	Gross profit. Subtract line 2 from line 1c							3	
	4	Dividends (Schedule C, line 19)							4	
	5	Interest							5	
	6	Gross rents							6	
	7	Gross royalties							7	
	8	Capital gain net income (attach Schedule D (Form 1120))							8	
	9	Net gain or (loss) from Form 4797, Part II, line 20 (attach Form 4797)							9	
	10	Other income (see instructions—attach schedule)							10	
	11	<b>Total income.</b> Add lines 3 through 10							▶	11

<b>Deductions (See instructions for limitations on deductions.)</b>	12	Compensation of officers (Schedule E, line 4)							12		
	13	Salaries and wages (less employment credits)							13		
	14	Repairs and maintenance							14		
	15	Bad debts							15		
	16	Rents							16		
	17	Taxes and licenses							17		
	18	Interest							18		
	19	Charitable contributions (see instructions for 10% limitation)							19		
	20	Depreciation (attach Form 4562)			20						
	21	Less depreciation claimed on Schedule A and elsewhere on return			21a				21b		
	22	Depletion							22		
	23	Advertising							23		
	24	Pension, profit-sharing, etc., plans							24		
	25	Employee benefit programs							25		
	26	Other deductions (attach schedule)							26		
	27	<b>Total deductions.</b> Add lines 12 through 26							▶	27	
	28	<b>Taxable income before net operating loss deduction and special deductions.</b> Subtract line 27 from line 11								28	
	29	Less: a Net operating loss deduction (see instructions)			29a						
		b Special deductions (Schedule C, line 20)			29b				29c		

<b>Tax and Payments</b>	30	Taxable income. Subtract line 29c from line 28							30	
	31	Total tax (Schedule J, line 10)							31	
	32	Payments: a 1993 overpayment credited to 1994	32a							
		b 1994 estimated tax payments	32b							
		c Less 1994 refund applied for on Form 4466	32c							
		d Bal ▶							32d	
		e Tax deposited with Form 7004							32e	
		f Credit from regulated investment companies (attach Form 2439)							32f	
		g Credit for Federal tax on fuels (attach Form 4136). See instructions							32g	
		h							32h	
33	Estimated tax penalty (see instructions). Check if Form 2220 is attached								33	
34	Tax due. If line 32h is smaller than the total of lines 31 and 33, enter amount owed								34	
35	Overpayment. If line 32h is larger than the total of lines 31 and 33, enter amount overpaid								35	
36	Enter amount of line 35 you want: Credited to 1995 estimated tax								36	
	Refunded ▶									

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

<b>Please Sign Here</b>	Signature of officer	Date	Title
	Preparer's signature	Date	Preparer's social security number
<b>Paid Preparer's Use Only</b>	Firm's name (or yours if self-employed) and address	E.I. No	ZIP code
		Check if self-employed <input type="checkbox"/>	

Form **720**

# Quarterly Federal Excise Tax Return

(Rev. January 1995)  
Department of the Treasury  
Internal Revenue Service

Use To Report Excise Taxes for 1995.

CMB No. 1545-0023

► For Paperwork Reduction Act Notice, see the separate instructions.

If you are not using a preprinted label, enter your name, address, employer identification number, and calendar quarter of return. See the separate instructions.

Name	Quarter ending
Number, street, and room or suite no. (If you have a P.O. box, see page 2.)	Employer identification number
City, state, and ZIP code (If you have a foreign address, see page 2.)	

**FOR IRS USE ONLY**

T	
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Final Return: If this is a final return or a one-time filing, check this box

**Part I**

IRS No.	Environmental Taxes (Attach Form 6627 for all environmental taxes.)	Tax	IRS No.		
53	Domestic petroleum superfund tax		53		
16	Imported petroleum products superfund tax		16		
54	Chemicals		54		
17	Imported chemical substances		17		
98	Ozone-depleting chemicals (ODCs)		98		
19	Imported products containing ODCs		19		
IRS No.	Communications and Air Transportation Taxes	Tax	IRS No.		
22	Toll telephone service, teletypewriter exchange service, and local telephone service		22		
26	Transportation of persons by air		26		
28	Transportation of property by air		28		
27	Use of international air travel facilities		27		
IRS No.	Fuel Taxes	Number of gallons	Rate	Tax	IRS No.
60	(a) Diesel fuel, tax on removal at terminal rack		\$ .244		60
	(b) Diesel fuel, tax on taxable events other than removal at terminal rack, including tax on liquids blended with previously taxed diesel fuel		.244		
71	Dyed diesel fuel used in trains		.069		71
78	Dyed diesel fuel used in certain intercity or local buses		.074		78
61	Special motor fuels		.184/.183		61
79	Other alcohol fuels		(See instructions.)		79
62	(a) Gasoline, tax on removal at terminal rack		.184		62
	(b) Gasoline, tax on taxable events other than removal at terminal rack		.184		
	(c) Gasoline, tax on failure to blend or later separation		(See instructions.)		
58	Gasoline sold for gasohol production containing at least 10% alcohol		.1444		58
73	Gasoline sold for gasohol production containing at least 7.7% alcohol but less than 10% alcohol		.1542		73
74	Gasoline sold for gasohol production containing at least 5.7% alcohol but less than 7.7% alcohol		.1624		74
59	Gasohol containing at least 10% alcohol		.13		59
75	Gasohol containing at least 7.7% alcohol but less than 10% alcohol		.1424		75
76	Gasohol containing at least 5.7% alcohol but less than 7.7% alcohol		.1532		76
69	Aviation fuel (other than gasoline)		.219		69
14	Gasoline for use in noncommercial aviation		.01		14
77	LUST tax on aviation fuel (other than gasoline)		.001		77
101	Compressed natural gas (taxed at \$.4854 per thousand cubic feet)				101

IRS No.	Description	Number of persons	Rate	Tax	IRS No.
33	Retail Tax (Attach Form 8807.) Truck, trailer, and semitrailer chassis and bodies, and tractors				33
29	Ship Passenger Tax Transportation by water		\$3 per person		29
31	Other Excise Tax Obligations not in registered form		\$ .01		31
92	Luxury Tax (Attach Form 8807.) Passenger vehicles				92
36	Manufacturers Taxes Coal—Underground mined		\$1.10 per ton		36
37			4.4% of sales price		37
38	Coal—Surface mined		\$ .55 per ton		38
39			4.4% of sales price		39
66	Highway-type tires (See instructions.)				66
40	Gas guzzler tax (Attach Form 6197.)				40
81	Vaccine Taxes		\$4.56		81
82			.06		82
83			4.44		83
84			.29		84
30	Foreign Insurance Taxes Policies issued by foreign insurers (See instructions.) Casualty insurance and indemnity bonds Life insurance, sickness and accident policies, and annuity contracts Reinsurance		\$ .04		30
			.01		
			.01		
<b>1 Total.</b> Add all amounts in Part I. Attach Schedule A unless one-time filing				\$	

IRS No.	Description	Number of gallons	Rate	Tax	IRS No.
41	Sport fishing equipment (Attach Form 8807.)				41
42	Electric outboard motors and sonar devices (Attach Form 8807.)				42
44	Bows and arrows (Attach Form 8807.)				44
64	Inland waterways fuel use tax		\$ .244		64
51	Alcohol sold as but not used as fuel (See instructions.)		.54/.40		51
20	Floor Stocks Taxes Ozone-depleting chemicals (floor stocks) (Attach Form 6627.)				20
<b>2 Total.</b> Add all amounts in Part II				\$	

<b>3</b> Total tax. Add line 1, Part I, and line 2, Part II	3		
<b>4</b> Adjustments and claims (See instructions. Attach Schedule C.)	4		
<b>5</b> Tax as adjusted. Combine lines 3 and 4. Enter the result here, using brackets if less than zero. (If no entry on line 4, enter amount from line 3.)	5		
<b>6</b> Deposits you made for the quarter	6		
<b>7</b> Overpayment from previous quarter	7		
<b>8</b> Total of lines 6 and 7	8		
<b>9</b> BALANCE DUE. If line 5 is greater than line 8, enter the difference. This amount must be paid with the return. Attach check or money order for full amount payable to "Internal Revenue Service." Write your EIN, Form 720, and the quarter on it.	9		
<b>10</b> OVERPAYMENT. If line 8 is greater than line 5, enter the difference. If you have an entry that is less than zero (in brackets) on line 5, add line 5 and line 8. Check if you want it: <input type="checkbox"/> Applied to your next return, or <input type="checkbox"/> Refunded to you.	10		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Sign Here

Signature \_\_\_\_\_ Date \_\_\_\_\_ Title \_\_\_\_\_

(Please type or print name below signature.) Telephone number ( ) \_\_\_\_\_

**Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI)**

DMS No. 1545  
 Attachment  
 Sequence No.

▶ Attach to Form 1040. ▶ See instructions on back.

For calendar year 19 or fiscal year ending

13

Your first name and initial Last name Your social security number  
 : :  
 : :  
 If a joint return, spouse's first name and initial Last name Spouse's social security number  
 : :  
 : :  
 Home address (number and street) Apt. no.  
 City, town or post office, state, and ZIP code

**Income From Guam or the CNMI Reported on Form 1040**

	Guam	CNMI
1 Wages, salaries, tips, etc.	1	
2 Taxable interest income	2	
3 Dividend income	3	
4 Taxable refunds, credits, or offsets of state and local income taxes	4	
5 Alimony received	5	
6 Business income or (loss)	6	
7 Capital gain or (loss)	7	
8 Other gains or (losses)	8	
9 IRA distributions (taxable amount)	9	
10 Pensions and annuities (taxable amount)	10	
11 Rental real estate, royalties, partnerships, S corporations, trusts, etc.	11	
12 Farm income or (loss)	12	
13 Unemployment compensation	13	
14 Social security benefits (taxable amount)	14	
15 Other income. List type and amount. ▶	15	
16 Total income. Add lines 1 through 15. ▶	16	

**Adjustments to Income From Guam or the CNMI Reported on Form 1040**

17a Your IRA deduction	17a	
b Spouse's IRA deduction	17b	
18 Moving expenses	18	
19 One-half of self-employment tax	19	
20 Self-employed health insurance deduction	20	
21 Keogh retirement plan and self-employed SEP deduction	21	
22 Penalty on early withdrawal of savings	22	
23 Alimony paid	23	
24 Total adjustments. Add lines 17a through 23.	24	
25 Adjusted gross income. Subtract line 24 from line 16. ▶	25	

**Payments of Income Tax to Guam or the CNMI**

26 Payments on estimated tax return filed with Guam or the CNMI	26	
27 Income tax withheld from your wages while employed as a civilian in Guam or the CNMI by the U.S. Government	27	
28 Income tax withheld from your wages while employed as a member of the U.S. Armed Forces in Guam or the CNMI	28	
29 Income tax withheld from your wages earned in Guam or the CNMI other than amounts on lines 26, 27, and 28	29	
30 Total payments. Add lines 26 through 29. ▶	30	

**Paperwork Reduction Act Notice**

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping . . . 2 hr., 57 min.
- Learning about the law or the form . . . 5 min.
- Preparing the form . . . 42 min.

Copying, assembling, and sending the form to the IRS . . . 17

If you have comments concerning accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for Form 1040.

Continued on 1

### Instructions

**Purpose of Form.**—This form provides information to the United States so the IRS can figure the individual income tax that is due to Guam or the CNMI.

**Who Must File.**—Use this form if (a) you file a U.S. tax return on Form 1040, (b) you report adjusted gross income of \$50,000 or more, and (c) \$5,000 or more of the gross income on your tax return comes from Guam or the CNMI sources. These filing requirements apply whether you file a single or a joint return.

**Where To File.**—Attach this form to your income tax return.

If you were a resident of the United States at the end of your tax year, file your U.S. tax return with the Internal

Revenue Service Center, Philadelphia, PA 19255.

If you were a resident of Guam at the end of your tax year, file a Guam tax return with the Department of Revenue and Taxation, Government of Guam, 378 Chalan San Antonio, Tamuning, GU 96911.

If you were a resident of the CNMI at the end of your tax year, file a CNMI tax return with the Division of Revenue and Taxation, Commonwealth of the Northern Mariana Islands, Central Office, Civic Center, Saipan, MP 96950.

If you are a citizen of one of these jurisdictions (the United States, Guam, or CNMI) but were not a resident of one of them at the end of your tax year, file

your income tax return with the jurisdiction of which you are a citizen.

If you file a joint return, file it in the jurisdiction required for the spouse had the higher adjusted gross income for the tax year, determined without regard to community property laws. Sources of Income.—See Internal Revenue Code sections 851 through 853 for the principles that determine the sources of income.

**Penalty for Failure To Furnish Information.**—If you do not furnish information we require, you may have to pay a penalty of \$100 for each failure unless you can show your failure was due to reasonable cause and not to willful neglect. This penalty is in addition to any criminal penalty provided by law.

### This Section for IRS Use Only

31	Income tax reported on tax return. Include any additional tax from Form 4970 or Form 4972 . . . . .	31		
32	Credit for child and dependent care expenses . . . . .	32		
33	Credit for the elderly or the disabled . . . . .	33		
34	Foreign tax credit . . . . .	34		
35	Other credits . . . . .	35		
36	Add lines 32 through 35 . . . . .	36		
37	Subtract line 36 from line 31. If the result is zero or less, enter -0- . . . . .	37		
38	Alternative minimum tax . . . . .	38		
39	Recapture taxes . . . . .	39		
40	Tax on qualified retirement plans, including IRAs . . . . .	40		
41	Other Chapter 1 taxes . . . . .	41		
42	Add lines 38 through 41 . . . . .	42		
43	Taxes to be allocated. Add lines 37 and 42 . . . . .	43		
			Guam	CNMI
44	Divide the amount on page 1, line 25, by the adjusted gross income reported on Form 1040. Enter the result as a decimal (carry to 3 places) . . . . .	44		
45	Tax allocated to Guam or the CNMI. Multiply line 43 by line 44 . . . . .	45		
46	Enter the amount from page 1, line 30 . . . . .	46		
47	Net tax due. Subtract line 46 from line 45 . . . . .	47		

1545-0074

Form 1040

Department of the Treasury—Internal Revenue Service U.S. Individual Income Tax Return (P) 1997

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

For the year Jan. 1–Dec. 31, 1997, or other tax year beginning 1997, ending 19 OMB No. 1545-0074

Label

(See instructions on page 10.)

Use the IRS label.

Otherwise, please print or type.

Label area with fields for name, address, and social security numbers.

Your social security number

Spouse's social security number

For help in finding line instructions, see pages 2 and 3 in the booklet.

Presidential Election Campaign (See page 10.)

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

Yes No Note: Checking "Yes" will not change your tax or reduce your return.

Filing Status

Check only one box.

Filing status options: 1 Single, 2 Married filing joint return, 3 Married filing separate return, 4 Head of household, 5 Qualifying widow(er).

Exemptions

If more than six dependents, see page 10.

Exemptions section with sub-sections a, b, c, and d. Includes table for dependents with columns for name, social security number, relationship, and months lived in home.

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 12.

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

Income section with lines 7 through 22. Includes sub-sections a, b, and c for various types of income and taxable amounts.

Adjusted Gross Income

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC inst. on page 21.

Adjusted Gross Income section with lines 23 through 32. Includes sub-sections a and b for various deductions and adjustments.

Tax Computation

33 Amount from line 32 (adjusted gross income)
34a Check if: [ ] You were 65 or older, [ ] Blind; [ ] Spouse was 65 or older, [ ] Blind.
Add the number of boxes checked above and enter the total here
b If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see page 18 and check here

35 Enter the larger of your:
Itemized deductions from Schedule A, line 28, OR
Standard deduction shown below for your filing status. But see page 18 if you checked any box on line 34a or 34b or someone can claim you as a dependent.
• Single—\$4,150 • Married filing jointly or Qualifying widow(er)—\$6,900
• Head of household—\$6,050 • Married filing separately—\$3,450

If you want the IRS to figure your tax, see page 18.

36 Subtract line 35 from line 33
37 If line 33 is \$90,900 or less, multiply \$2,650 by the total number of exemptions claimed on line 6d. If line 33 is over \$90,900, see the worksheet on page 19 for the amount to enter
38 Taxable income. Subtract line 37 from line 36. If line 37 is more than line 36, enter -0-
39 Tax. See page 19. Check if any tax from a [ ] Form(s) 8814 b [ ] Form 4972

Credits

40 Credit for child and dependent care expenses. Attach Form 2441
41 Credit for the elderly or the disabled. Attach Schedule R
42 Adoption credit. Attach Form 8839
43 Foreign tax credit. Attach Form 1116
44 Other. Check if from a [ ] Form 3800 b [ ] Form 8396
c [ ] Form 8801 d [ ] Form (specify)
45 Add lines 40 through 44
46 Subtract line 45 from line 39. If line 45 is more than line 39, enter -0-

Other Taxes

47 Self-employment tax. Attach Schedule SE
48 Alternative minimum tax. Attach Form 6251
49 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137
50 Tax on qualified retirement plans (including IRAs) and MSAs. Attach Form 5329 if required
51 Advance earned income credit payments from Form(s) W-2
52 Household employment taxes. Attach Schedule H
53 Add lines 46 through 52. This is your total tax

Payments

Attach Forms W-2, W-2G, and 1099-R on the front.

54 Federal income tax withheld from Forms W-2 and 1099
55 1997 estimated tax payments and amount applied from 1996 return
56a Earned income credit. Attach Schedule EIC if you have a qualifying child b Nontaxable earned income: amount
and type
57 Amount paid with Form 4868 (request for extension)
58 Excess social security and RRTA tax withheld (see page 27)
59 Other payments. Check if from a [ ] Form 2439 b [ ] Form 4136
60 Add lines 54, 55, 56a, 57, 58, and 59. These are your total payments

Refund

Have it directly deposited! See page 27 and fill in 62b, 62c, and 62d.

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID
62a Amount of line 61 you want REFUNDED TO YOU
b Routing number
c Type: [ ] Checking [ ] Savings
d Account number
63 Amount of line 61 you want APPLIED TO YOUR 1998 ESTIMATED TAX

Amount You Owe

64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. For details on how to pay, see page 27
65 Estimated tax penalty. Also include on line 64

Sign Here

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

Your signature Date Your occupation
Spouse's signature. If a joint return, BOTH must sign. Date Spouse's occupation

Paid Preparer's Use Only

Preparer's signature Date Check if self-employed [ ] Preparer's social security no
Firm's name (or yours if self-employed) and address EIN
ZIP code

DEPARTMENT OF THE TREASURY - BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
**TAX RETURN—MANUFACTURER OF TOBACCO PRODUCTS**

1. SERIAL NO. (Begin with "1" JANU  
 1 each year)

INSTRUCTIONS: File this return in an ORIGINAL ONLY with the Director of Internal Revenue Service Center. A copy of this return should be retained as evidence that the tax return was filed on or before the due date and serve as the official record copy. Make check or money order payable to INTERNAL REVENUE SERVICE (also show employer identification number on the check or money order).

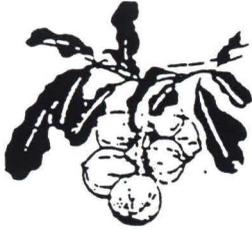
PAPERWORK REDUCTION ACT NOTICE—This request is in accordance with Section 3507, Public Law 96-511, December 11, 1980. The purpose of this information is to identify taxpayer's amount of tax due, and type of payment period for each tax return. The information is used by the Commission to ensure that the correct tax payment was made and received. The information is mandatory by statute. (26 U.S.C. 5061, 5703)

2. PERMIT NO. TP—	3. EMPLOYER IDENTIFICATION NUMBER	4. FORM OF PAYMENT
5. NAME OF TAXPAYER AND MAILING ADDRESS OF FACTORY FROM WHICH PRODUCTS WERE REMOVED SUBJECT TO TAX (Show Number, Street, City, State, and ZIP Code)		FOR USE OF INTERNAL REVENUE SERVICE
		TAX \$
		PENALTY
		INTEREST
		TOTAL \$
PART I — PERIOD COVERED BY THIS RETURN		FOR USE OF ATF
Tax return periods are from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month.		AUDITED BY
6A. FROM (Month, day, year)	6B. THROUGH (Month, day, year)	DATE OF AUDIT

PART II — COMPUTATION OF TAX

ARTICLE	REMOVALS DURING RETURN PERIOD		RATE OF TAX (c)	TAX (d)
	TOTAL WHOLESALE PRICE (a)	TOTAL NUMBER (b)		
7. LARGE CIGARS A. Wholesale price not more than \$235.294 per M	\$		8% of the wholesale price (.085 x col. (a))	\$
B. Wholesale price more than \$235.294 per M			\$20.00 per M	
8. SMALL CIGARS			\$0.75 per M	
9. LARGE CIGARETTES (Class B)			\$ per M*	
10. SMALL CIGARETTES (Class A)			\$8.00 per M	
11.	TOTAL TAX			\$
12. ADJUSTMENTS (from item 24) INCREASING TAX				\$
13.	TOTAL			\$
14. ADJUSTMENTS (from item 33) DECREASING TAX				\$
15. TAX TO BE PAID WITH THIS RETURN (item 13 minus item 14) INCLUDES \$ _____ NET INTEREST OWED U.S. (Subtract item 22(g) from item 23(g).)				\$

\* Enter applicable rate of tax imposed by 26 U.S.C. 5701(b)(2). (See regulations in 27 CFR 270.22(b), that is, "16.80" if large cigarettes measure not more than 6 1/2 inches in length, "24.00" if more than 6 1/2 inches but not more than 8 1/2 inches in length, etc.)



# ANNUAL MACADAMIA NUT SURVEY NOVEMBER 1988

Form 1  
O.M.S. 11/88/1  
Approval Exp.

467301 15 11001 53-000007640  
00

FRED  
KONA PLAZA  
KAILUA-KONA HI 96740-9746

Hawaii  
 Agricultural  
Statistics  
Service  
P.O. Box 22159  
Honolulu, HI 96822-0159  
(808) 548-7155

A cooperative agency of:



Hawaii Department  
of Agriculture  
Marketing Division

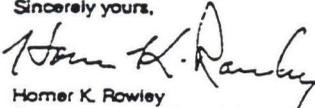


U.S. Department  
of Agriculture

Dear Macadamia Nut Grower:

Response to this survey is voluntary and not required by law. However, your cooperation is important in order to accurately estimate macadamia nut statistics for Hawaii. Federal regulations ensure that your individual report will remain strictly confidential within this office and will only be combined with other similar reports in arriving at county and State totals.

Sincerely yours,

  
Homer K. Rowley  
State Agricultural Statistician

 Please return  
by  
Nov. 15<sup>th</sup>

Please check the crops you grow and fill in the questionnaire(s) which apply to your operation.

- Macadamia nuts (Complete questions below)  Coffee (Complete coffee questionnaire)  None (Return this for

## JULY 1, 1988-JUNE 30, 1989 CROP

### PART I. ACREAGE

- Total area of macadamia nuts on your farm .....
- Area you expect to harvest this season .....
- New plantings in 1988 .....
- Number of replacement trees planted in 1988 .....
- Area abandoned or taken out of production .....
- Acres you intend to plant next year .....
- Are your macadamia nuts interplanted with coffee?:  Yes  No  
If yes, how many acres? ..... Acres

Acres	Trees

### PART II. PRODUCTION (In-shell basis)

- For the pounds of macadamia nuts (in-shell) harvested from July 1, 1988 through October 31, 1988, how much was:
  - Sold to processors ..... Pounds
  - Harvested but still stored on your farm ..... Pounds
  - Used on your farm or given away ..... PoundsTotal (Sum parts a + b + c) ..... Pounds
- What was the percentage or amount of nuts deducted by the processor? ..... Percent OR ..... Pounds
- What was the average moisture content of the nuts delivered to the processor? ..... Percent

# SUBCHAPTER A—INCOME TAX

## PART 1—INCOME TAXES

Sec.

1.0-1 Internal Revenue Code of 1954 and regulations.

### NORMAL TAXES AND SURTAXES

#### DETERMINATION OF TAX LIABILITY

##### TAX ON INDIVIDUALS

- 1.1-1 Income tax on individuals.
- 1.1-2 Limitation on tax.
- 1.1-3 Change in rates applicable to taxable year.
- 1.1(i)-1T Questions and answers relating to the tax on unearned income certain minor children (Temporary).
- 1.2-1 Tax in case of joint return of husband and wife or the return of a surviving spouse.
- 1.2-2 Definitions and special rules.
- 1.3-1 Application of optional tax.
- 1.4-1 Number of exemptions.
- 1.4-2 Elections.
- 1.4-3 Husband and wife filing separate returns.
- 1.4-4 Short taxable year caused by death.

##### TAX ON CORPORATIONS

1.11-1 Tax on corporations.

##### CHANGES IN RATES DURING A TAXABLE YEAR

- 1.21-1 Changes in rate during a taxable year.
- 1.23-1 Residential energy credit.
- 1.23-2 Definitions.
- 1.23-3 Special rules.
- 1.23-4 Performance and quality standards. [Reserved]
- 1.23-5 Certification procedures.
- 1.23-6 Procedure and criteria for additions to the approved list of energy-conserving components or renewable energy sources.
- 1.25-1T Credit for interest paid on certain home mortgages (Temporary).
- 1.25-2T Amount of credit (Temporary).
- 1.25-3 Qualified mortgage credit certificate.
- 1.25-3T Qualified mortgage credit certificate (Temporary).
- 1.25-4T Qualified mortgage credit certificate program (Temporary).
- 1.25-5T Limitation on aggregate amount of mortgage credit certificates (Temporary).
- 1.25-6T Form of qualified mortgage credit certificate (Temporary).
- 1.25-7T Public notice (Temporary).
- 1.25-8T Reporting requirements (Temporary).

1.28-0 Credit for clinical testing expenses for certain drugs for rare diseases or conditions; table of contents.

1.28-1 Credit for clinical testing expenses for certain drugs for rare diseases or conditions.

### CREDITS AGAINST TAX

#### CREDITS ALLOWABLE

- 1.30-1 Definition of qualified electric vehicle and recapture of credit for qualified electric vehicle.
- 1.31-1 Credit for tax withheld on wages.
- 1.31-2 Credit for "special refunds" of employee social security tax.
- 1.32-2 Earned income credit for taxable years beginning after December 31, 1978.
- 1.32-3T Eligibility requirements (Temporary).
- 1.34-1 Credit against tax and exclusion from gross income in case of dividends received by individuals.
- 1.34-2 Limitations on amount of credit.
- 1.34-3 Dividends to which the credit and exclusion apply.
- 1.34-4 Taxpayers not entitled to credit and exclusion.
- 1.34-5 Effective date; taxable years ending after July 31, 1954, subject to the Internal Revenue Code of 1939.
- 1.34-6 Dividends received after December 31, 1964.
- 1.35-1 Partially tax-exempt interest received by individuals.
- 1.35-2 Taxpayers not entitled to credit.
- 1.37-1 General rules for the credit for the elderly.
- 1.37-2 Credit for individuals age 65 or over.
- 1.37-3 Credit for individuals under age 65 who have public retirement system income.
- 1.38-1 Investment in certain depreciable property.
- 1.40-1 Questions and answers relating to the meaning of the term "qualified mixture" in section 40(b)(1).

#### TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

- 1.41-0 Table of contents.
- 1.41-1 Introduction to regulations under section 41.
- 1.41-2 Qualified Research Expenses.
- 1.41-3 Base period research expense.
- 1.41-4 Qualified research for taxable years beginning after December 31, 1985. [Reserved]
- 1.41-5 Qualified research for taxable years beginning before January 1, 1986.
- 1.41-6 Basic research for taxable years beginning after December 31, 1985. [Reserved]

**Subpart J—OMB Control Numbers Under the Paperwork Reduction Act**

§ 601.9000 OMB control numbers for the statement of procedural rules.

(a) *Purpose.* This section collects and displays the control numbers assigned to Internal Revenue Service collections of information in the Statement of Procedural Rules (26 CFR Part 601) by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this section (together with 26 CFR Part 602) comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR Part 1320 (OMB regulations implementing the Paperwork Reduction Act of 1980) for the display of control numbers assigned by OMB to collections of information of the Internal Revenue Service in the Statement of Procedural Rules. This section does not display control numbers assigned by OMB to collections of information of the Bureau of Alcohol, Tobacco, and Firearms in the Statement of Procedural Rules.

(b) *Cross-reference.* For display of control numbers assigned by the Office of Management and Budget to collections of information of the Internal Revenue Service in regulations elsewhere than in the Statement of Procedural Rules, see 26 CFR Part 602.

(c) *Display.*

26 CFR 601 section where identified and described	Current OMB control number
§ 601.105(e).....	1545-0091
§ 601.201(e).....	1545-0819
§ 601.201(i).....	1545-0819
§ 601.201(j).....	1545-0019
§ 601.201(n).....	1545-0019
§ 601.201(o).....	1545-0019
§ 601.401.....	1545-0257
§ 601.401.....	1545-0023
§ 601.402 (c) and (d).....	1545-0257
§ 601.402(e).....	1545-0014
§ 601.403.....	1545-0257
§ 601.403(c).....	1545-0023
§ 601.403(d).....	1545-0024
§ 601.404 (d) and (f).....	1545-0012
§ 601.504.....	1545-0150
§ 601.601.....	1545-0800
§ 601.702(f)(2).....	1545-0429

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 8011, 50 FR 10222, Mar. 14, 1985, as amended at 51 FR 7442, Mar. 4, 1986. Redesignated at 53 FR 19187, May 26, 1988]

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

§ 602.101 OMB control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part (together with 26 CFR 601.9000) comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Cross-reference.* For display of control numbers assigned by the Office of Management and Budget to Internal Revenue Service collections of information in the Statement of Procedural Rules (26 CFR part 601), see 26 CFR 601.9000.

(c) *Display.*

26 CFR part or section where identified and described	Current OMB control number
§ 1.1-1.....	1545-0067
§ 1.25-1T.....	1545-0922
§ 1.25-2T.....	1545-0922
§ 1.25-3T.....	1545-0922
§ 1.25-4T.....	1545-0922
§ 1.25-5T.....	1545-0922
§ 1.25-6T.....	1545-0922
§ 1.25-7T.....	1545-0922
§ 1.25-8T.....	1545-0922
§ 1.28-1.....	1545-0619
§ 1.31-2(a).....	1545-0074
§ 1.37-1(c).....	1545-0074
§ 1.37-3(b).....	1545-0074
§ 1.41-4A(b) and (c).....	1545-0074
§ 1.42-1T.....	1545-0988

## Table of OMB Control Numbers

The OMB control numbers for chapter I of title 26 were consolidated into §§ 601.9000 and 602.101 at 50 FR 10221, Mar. 14, 1985. At 61 FR 58008, Nov. 12, 1996, § 601.9000 was removed. Section 602.101 is reprinted below for the convenience of the user.

### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

#### § 602.101 OMB Control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

#### (b) *Display.*

CFR part or section where identified and described	Current OMB contr No.
1.41-4 (b) and (c) .....	1545-007
1.41-8(d) .....	1545-073
1.41-9 .....	1545-061
1.42-1T .....	1545-098
	1545-098
1.42-2 .....	1545-100
1.42-5 .....	1545-129
1.42-6 .....	1545-110
1.42-8 .....	1545-110
1.42-10 .....	1545-110
1.42-13 .....	1545-135
1.42-14 .....	1545-142
1.43-3(a)(3) .....	1545-129
1.43-3(b)(3) .....	1545-129
1.44A-1 .....	1545-006
1.44A-3 .....	1545-0074
1.44B-1 .....	1545-0219
1.458-1 .....	1545-0879
1.458-2 .....	1545-0152
1.46-1 .....	1545-0123
	1545-0155
1.46-3 .....	1545-0155
1.46-4 .....	1545-0155
1.46-5 .....	1545-0155
1.46-6 .....	1545-0155
1.46-8 .....	1545-0155
1.46-9 .....	1545-0155
1.46-10 .....	1545-0118
1.46-11 .....	1545-0155
1.47-1 .....	1545-0166
	1545-0155
1.47-3 .....	1545-0166
	1545-0155
1.47-4 .....	1545-0123
1.47-5 .....	1545-0092
1.47-6 .....	1545-0099
1.48-3 .....	1545-0155
1.48-4 .....	1545-0808
	1545-0155
1.48-5 .....	1545-0155
1.48-6 .....	1545-0155
1.48-12 .....	1545-0155
1.50A-1 .....	1545-0895
1.50A-2 .....	1545-0895
1.50A-3 .....	1545-0895
1.50A-4 .....	1545-0895
1.50A-5 .....	1545-0895
1.50A-6 .....	1545-0895
1.50A-7 .....	1545-0895
1.50B-1 .....	1545-0895
1.50B-2 .....	1545-0895
1.50B-3 .....	1545-0895
1.50B-4 .....	1545-0895
1.50B-5 .....	1545-0895
1.51-1 .....	1545-0219
	1545-0241
	1545-0244

CFR part or section where identified and described	Current OMB control No.
1.23-5 .....	1545-0074
1.25-1T .....	1545-0922
	1545-0930
1.25-2T .....	1545-0922
	1545-0930
1.25-3T .....	1545-0922
	1545-0930
1.25-4T .....	1545-0922
1.25-5T .....	1545-0922
1.25-6T .....	1545-0922
1.25-7T .....	1545-0922
1.25-8T .....	1545-0922
1.28-1 .....	1545-0619
1.31-2 .....	1545-0074
1.32-2 .....	1545-0074
1.32-3T .....	1545-1575
1.37-1 .....	1545-0074
1.37-3 .....	1545-0074
1.41-2 .....	1545-0619
1.41-3 .....	1545-0619
1.41-4A .....	1545-0074

**§ 1.23-4 Performance and quality standards. [Reserved]**

[T.D. 7717, 45 FR 57721, Aug. 29, 1980. Redesignated by T.D. 8146, 52 FR 26672, July 16, 1987]

**§ 1.23-5 Certification procedures.**

(a) *Certification that an item meets the definition of an energy-conserving component or renewable energy source property.* Upon the request of a manufacturer of an item pursuant to paragraph (b) of this section which is supported by proof that the item is entitled to be certified, the Assistant Commissioner (Technical) shall certify (or shall notify the manufacturer that the request is denied) that:

(1) The item meets the definition of insulation (see § 1.23-2(c)(1)).

(2) The item meets the definition of an other energy-conserving component specified in section 23(c)(4) or former section 44C(c)(4) see (§ 1.23-2(d)(4)).

(3) The item meets the definition of solar energy property (see § 1.23-2(f)), wind energy property (see § 1.23-2(g)), or geothermal energy property (see § 1.23-2(h)).

(4) The item meets the definition of a category of energy-conserving component that has been added to the list of approved items pursuant to paragraph (d)(4)(viii) of § 1.23-2.

(5) The item meets the definition of renewable energy source property that transmits or uses a renewable energy source that has been added to the list of approved renewable energy sources pursuant to paragraph (e)(2) of § 1.23-2.

(b) *Procedure—(1) In general.* A manufacturer of an item desiring to apply under paragraph (a) shall submit the application to the Commissioner of Internal Revenue, Attention: Associate Chief Counsel (Technical), CC:C:E, 1111 Constitution Avenue NW., Washington, DC 20224. Upon being advised by the National Office, orally or in writing, that an adverse decision is contemplated a manufacturer may request a conference. The conference must be held within 21 calendar days from the date of that advice. Procedures for requesting an extension of the 21-day period and notifying the manufacturer of the Service's decision on that request are the same as those applicable to conferences on ruling requests by tax-

payers (see section 9.05 of Rev. Proc. 80-20).

(2) *Contents of application.* The application shall include a description of the item (including appropriate design drawings and specifications) and an explanation of the purpose and function of the item. There shall accompany the application a declaration in the following form: "Under penalties of perjury, I declare that I have examined this application, including accompanying documents and, to the best of my knowledge and belief, the facts presented in support of the application are true, correct, and complete." The statement must be signed by the person or persons making the application.

(c) *Effect of certification under paragraph (a).* Certifications granted under paragraph (a)(1), (2), or (3) will be applied retroactively to April 20, 1977. However, certifications granted under paragraph (a) (4) or (5) will be applied retroactively only to the date the applicable energy-conserving component or renewable energy source was added by Treasury decision to the list of qualifying components or sources. Certification of an item under this section means that the applicable definitional requirement of § 1.23-2 is considered satisfied in the case of any person claiming a residential energy credit with respect to such item. However, it does not relieve manufacturers of the need to establish that their items conform to performance and quality standards (if any) provided under § 1.23-4 and that their items can reasonably be expected to remain in operation at least 3 years, in the case of insulation and other energy-conserving components, or at least 5 years, in the case of renewable energy source property.

[T.D. 7717, 45 FR 57721, Aug. 29, 1980. Redesignated and amended by T.D. 8146, 52 FR 26672, July 16, 1987]

**§ 1.23-6 Procedure and criteria for additions to the approved list of energy-conserving components or renewable energy sources.**

(a) *Procedures for additions to the list of energy-conserving components or renewable energy sources—(1) In general.* A manufacturer of an item (or a group of manufacturers) desiring to apply for addition to the approved list of energy-

Coffey

Wed, Feb 17, 1999

Executive Office of the President  
Office of Management and Budget  
Washington, D.C. 20503

Re: Your compliance with Public Law 96-511, section 3504. Authority and function of Director. Section 3504 (c) (3) (C).

Dear Mr. Darrell A. Johnson,

I have read this public law dated 12/11/1980, in the section above cited, and it states 3504(c) "The information collection request clearance and other paperwork control functions of the Director shall include---...'(3) ensuring that **all information collection requests--- (C) CONTAIN** a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory;".

The form 1040, individual income tax return, is a form used by the Internal Revenue Service to collect information from individuals, and I assume that since Form 1040 has an OMB number on it that your office has approved the form. No where **ON** the form is there any statement that remotely resembles the Section 3504 (c)(3)(C) statement that it is voluntary or mandatory for the taxpayer to give the information.

The form 1040 is a double sided form and I have examined it throughly and no such statement exists on the form.

When the business forms for business information here in Texas are sent out, they contain the statement on the form that it is voluntary (if it is voluntary) and a statement saying it is mandatory (if it is mandatory). It is in small print at the top of the form so all can see it. Whether they read it or not, the forms comply.

If the statement is lacking from the form 1040 as I think it is, then someone in your office has goofed, and I will appreciate your sending me an explanation or a statement that I can disregard this form as a "bootleg" form.

If you do not wish to tell me to disregard the form, then I say to you as a Texan Please comply with your functions before the form is approved.

Respectfully,



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

- Be sure & look over Page 9

Mr.

Dear Mr.

This responds to your Freedom of Information Act request to the Office of Management and Budget (OMB) dated February 17, 1999, which was received in this office on February 27, 1999. Your request asks for copies of documents pertaining to OMB approval of Internal Revenue Service Form 1040. *I ordered this. IRS Requests the OMB approve the 1040 + MAKES APPLICATION FOR SAME.*

Upon a thorough search of our files, we have found one document that is responsive to your request. A copy of the responsive document is enclosed.

There is no charge for the enclosed documents because there are fewer than 100 pages and less than two hours of search time, which is below the minimum agency requirement for charging for processing cost.

Sincerely,

Darrell A. Johnson  
Freedom of Information Act Officer

Enclosure

*They include Pertinent info + CERTIFY the info they submit  
The next thing I intend to do is write a similar Reves  
Letter for Form 2555, then we'll see how consistent  
They wish to keep the omb # on it with the Reves*

## PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send three copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documents to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

<p>1. Agency/Subagency originating request <b>Department of the Treasury/IRS</b></p>	<p>2. OMB control number a. <u>1545-0074</u>      b. <u>None</u></p>
<p>3. Type of information collection (check one)</p> <p>a. <input type="checkbox"/> New collection  b. <input checked="" type="checkbox"/> Revision of a currently approved collection  c. <input type="checkbox"/> Extension of a currently approved collection  d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired  e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired  f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (check one)</p> <p>a. <input checked="" type="checkbox"/> Regular submission  b. <input type="checkbox"/> Emergency - approval requested by: <u>10/01/98</u>  c. <input type="checkbox"/> Delegated</p> <hr/> <p>5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities?  <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p> <hr/> <p>6. Requested expiration date  a. <input type="checkbox"/> Three years from approval date  b. <input checked="" type="checkbox"/> Other Specify: <u>2/2001</u></p>
<p>7. Title: <b>U.S. Individual Income Tax Return</b></p>	
<p>8. Agency form number (s) (if applicable): <b>Form 1040 and Schedules A, B, C, C-EZ, D, D-1, E, SIG, P, F, D, E, and SE, X</b></p>	
<p>9. Keywords: <b>Personal Income Taxes, Tax Returns</b></p>	
<p>10. Abstract: These forms are used by individuals to report their income tax liability. The data is used to verify that the items reported on the forms correct, and also for general statistical use.</p>	
<p>11. Affected public (Mark primary with "P" and all others that apply with "X")</p> <p><input checked="" type="checkbox"/> Individuals or households      d. <input type="checkbox"/> Farms  <input checked="" type="checkbox"/> Business or other for-profit      e. <input type="checkbox"/> Federal Gov.  c. <input type="checkbox"/> Not-for-profit institutions      f. <input type="checkbox"/> State, Local or Tribal Gov.</p>	<p>12. Obligation to respond (Mark primary with "P" and all others that apply with "X")</p> <p>a. <input type="checkbox"/> Voluntary  b. <input type="checkbox"/> Required to obtain or retain benefits  c. <input checked="" type="checkbox"/> Mandatory</p>
<p>13. Annual reporting and recordkeeping hour burden</p> <p>a. Number of respondents      <u>71,977,444</u>  b. Total annual responses      <u>276,493,973</u></p> <p>1. Percentage of these responses collected electronically <u>6%</u></p> <p>c. Total annual hours requested      <u>1,211,582,312</u>  d. Current OMB inventory      <u>1,143,129,009</u>  e. Difference      <u>+68,453,304</u></p> <p>f. Explanation of differences</p> <p>1. Program change (+, -)      <u>+38,595,728</u>  2. Adjustment (+, -)      <u>+29,857,576</u></p>	<p>14. Annual reporting and recordkeeping cost burden (in thousand dollars)</p> <p>a. Total annualized capital/startup costs _____  b. Total annual costs (O&amp;M) _____  c. Total annualized cost requested _____  d. Current OMB inventory _____  e. Difference _____  f. Explanation of difference</p> <p>1. Program change _____  2. Adjustment _____</p>
<p>15. Purpose of information collection (Mark primary with "P" and all others that apply with "X")</p> <p>a. <input type="checkbox"/> Application for benefits      e. <input type="checkbox"/> Program planning or Mgmt  b. <input type="checkbox"/> Program evaluation      f. <input type="checkbox"/> Research  c. <input type="checkbox"/> General purpose statistics      g. <input checked="" type="checkbox"/> Regulatory or compliance  d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (check all that apply)</p> <p>a. <input checked="" type="checkbox"/> Recordkeeping      b. <input type="checkbox"/> Third party disclosure  c. <input checked="" type="checkbox"/> Reporting</p> <p>1. <input type="checkbox"/> On occasion      2. <input type="checkbox"/> Weekly      3. <input type="checkbox"/> Month  4. <input type="checkbox"/> Quarterly      5. <input type="checkbox"/> Semi-annually      6. <input checked="" type="checkbox"/> Annually  7. <input type="checkbox"/> Biennially      8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods?</p> <p style="text-align: center;"><input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p>	<p>18. Agency contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: <u>Martha Brinson</u>  Phone: <u>202-672-5200</u></p>

Supporting Statement for Form 1040

Schedule J (96 Capital Gain Worksheet	250,000	.49	0	122,500	122,
Schedule R	137,223	1.53	(139,975)	0	209,
Sch SE--Short	12,011,238	0.96	56,934	0	11,530,
Sch SE--Long	879,106	1.71	70,652	0	1,503,
<b>TOTALS</b>	<b>276,493,973</b>		<b>29,857,576</b>	<b>38,595,728</b>	<b>1,211,582,</b>

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time.

12. Burden Estimation (continued). We are asking for continued approval of these regulations that are associated with Form 1040. Please continue to assign OMB number 1545-0074 to these regulations:

- 1.23-5
- 1.31.2
- 1.37-2 and 3
- 1.41-4
- 1.41-4A
- 1.43-2
- 1.44A-3
- 1.52-4
- 1.61-15
- 1.63-1
- 1.64(c)6
- 1.71-1
- 1.72
- 1.79-2 and 3
- 1.83-2 thru 5
- 1.105
- 1.151-1
- 1.152-4 and 4T
- 1.162-24
- 1.163-10T
- 1.166-10
- 1.170
- 1.170A
- 1.172
- 1.180-2
- 1.182-6
- 1.190-3
- 1.213-1
- 1.215-1

Did you see that there Not Requesting That 1.1-1 be associated with FORM 1040 + THIS IS CERTIFIED.

# AFFIDAVIT

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

This affidavit is to be completed and returned to: \_\_\_\_\_  
(your name and address here)

1. Under code sections 6001, 6011, 6012(a) I am required by law to provide you with the following information when asked to do so.
2. You are a taxpayer as defined in section 1.1-1, Title 26 Code of Federal Regulations. The section in Title 26 U.S.C.A. that makes you a taxpayer subject to the individual income tax is \_\_\_\_\_.
3. The implementing regulation in Title 26, Code of Federal Regulations that gives the above section the force of law is \_\_\_\_\_.
4. The regulating statute from the United States Statutes at Large is \_\_\_\_\_.
5. The correct form that you are required by law to file is \_\_\_\_\_.
6. Form \_\_\_\_\_ has an OMB number of \_\_\_\_\_ and expires \_\_\_\_\_.
7. You were noticed by Certified Mail on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the District Director, \_\_\_\_\_, to keep certain specified books and records to determine if you had any taxable income.

\_\_\_\_\_  
Signature of IRS official completing this affidavit

\_\_\_\_\_  
Date Signed

INTERNAL REVENUE SERVICE

\_\_\_\_\_  
Address

SUBSCRIBED AND AFFIRMED:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared, personally known to me, OR proved to me on the basis of satisfactory evidence to be the one whose name is subscribed to the within instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary

My Commission Expires: \_\_\_\_\_

This is a copy of a portion of the letter signed by Thomas Marusin. The letter was not addressed to *your name* Thomas Marusin is now Director, Freedom of Information, Internal Revenue Service, Washington, D.C.

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

David Silverman  
Telephone Number:

(202) 927-6608  
Refer Reply to:

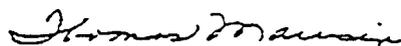
T:T:Q:T:DS 40588  
Date:

JUN 14 1994

The law itself does not require individuals to file a Form 1040.

We hope that our letter is helpful.

Sincerely,



Thomas Marusin, Chief  
Quality Improvement Systems Branch

EXHIBIT 1

CERTIFIED MAIL# \_\_\_\_\_

From:

Account# \_\_\_\_\_

To: District Director  
Department of the Treasury  
Internal Revenue Service  
P.O. Box 1818  
Cincinnati, Ohio 45201

*Put the correct address of your  
District Director.*

Dear Director:

Each April 15<sup>th</sup> I open the Code of Federal Regulations to 1.1-1, "Income Tax On Individuals", then to Title 26 at Section 1, "Tax Imposed". I read the following (in part) from the Code of Federal Regulations. "General Rule, Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States". Next, I go Title 26, Internal Revenue Code and (in part) I read Code Section 1, "Tax Imposed" "There is hereby imposed on the taxable income of every married individual and etc.". Next stop is 26 Code of Federal Regulations, Chapter 1, Section 602.101 at 1.1-1. I then follow the dotted line to the right and at the top is the designated ~~Current~~ OMB Control Number of 1545-0067. Obviously, I must now find the form that contains the proper OMB number for the tax that is imposed by the Code of Federal Regulations at 1.1-1 and Title 26 at Section 1. Turning to Form 2555 Which carries the OMB Number of 1545-0067 and is the designated form for me to file my alleged taxes imposed by the Code of Federal Regulations at 1.1-1 and Title 26, Section 1. Let me say here and now that I have no books, no records and no income, relevant to form 2555 and the current OMB control number.

Being that Form 2555 is the designated form by current OMB Control Number 1545-0067 for the CFR 1.1-1 "Income Tax On Individuals" and Title 26, Section 1, "Tax Imposed" Total Estoppel is now 100% in effect, nullifying all liens, levies and assessments (Exhibit S). Notify the undersigned party immediately with release of levies.

I am enclosing the 1.1-1 Income Tax on Individuals (Exhibit P), Section 1 Tax Imposed On Married Individuals Filing Joint Returns and Surviving Spouses (Exhibit Q), 26 Code of Federal Regulations, Chapter 1 at 602.101 (Exhibit R), Form 2555 with an OMB number of 1545-0067 (Exhibit S) and the instructions for Form 2555 (Exhibit T).

I will quote some of the excerpts entitled, Purpose of Form 2555, "if you are a US Citizen or a US Resident Alien living in a foreign country you are subject to the same US Income Tax Law that Apply to the citizens and resident aliens living in the United States". Since I am not a United States Citizen or Resident Alien living in a foreign country I do not have any interest as to what kind of taxes those people are subject. Only the ones that apply to me living in this country. Here, it states if you qualify, use Form 2555 to exclude a limited amount of your foreign earned income. I am not permitted to file Form 2555 without committing perjury.

Each April 15<sup>th</sup>, after thoroughly reading the above, I close 26 Code of Federal Regulation and Title 26 with full confidence that I have no obligation to file anything. Should circumstances change, such as living and working in a foreign country I will do what any red-blooded American should do, file Form 2555 and pay the tax due.

If you do not reply to this letter within 15 days, you have acquiesced to the contents of this letter. This letter is to be placed into the permanent administrative file and/or records of the undersigned party.

Sincerely,

CC: Attorney General Janet Reno  
United States Justice Department  
10<sup>th</sup> and Constitution Ave., NW  
Washington, D.C. 20530

Director of the Foreign Operations District  
Agents for the Federal Alcohol Administration in Puerto Rico  
Internal Revenue Service  
Bureau of the Federal Alcohol Administration in Puerto Rico  
Washington, D.C. 20205

Commissioner of the Internal Revenue Service  
Ben Franklin Station, P.O. Box 929  
Washington, D.C. 20225

Director, Bureau of Alcohol, Tobacco, and Firearms  
Agent for the Federal Alcohol Administration in Puerto Rico  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20226

Office of Appeals  
Internal Revenue Service  
P.O. Box 1579  
Cincinnati, Ohio 45201

Congressman Oxley  
U.S. House of Representatives  
238 Cannon Office Building  
Washington, D.C. 20515

Senator Mike Dewine  
140 Russell Building  
Washington, D.C. 20510

Senator George Voinovich  
B34 Dirksen Senate Office Building  
Washington, D.C. 20510

§ 1.0-1 Internal Revenue Code of 1954 and regulations.

(a) **Enactment of law.** The Internal Revenue Code of 1954 which became law upon enactment of Pub. L. 591, 83d Congress, approved August 16, 1954, provides in part as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled* That (a) Citation. (1) The provisions of this Act set forth under the heading "Internal Revenue Title" may be cited as the "Internal Revenue Code of 1954"

(2) The Internal Revenue Code enacted on February 10, 1939, as amended, may be cited as the "Internal Revenue Code of 1939".

(b) **Publication.** This Act shall be published as volume 68A of the United States Statutes at Large, with a comprehensive table of contents and an appendix; but without an index or marginal references. The date of enactment, bill number, public law number, and chapter number, shall be printed as a headnote.

(c) **Cross reference.** For saving provisions, effective date provisions, and other related provisions, see chapter 80 (sec. 7801 and following) of the Internal Revenue Code of 1954.

(d) **Enactment of Internal Revenue Title into law.** The Internal Revenue Title referred to in subsection (a)(1) is as follows:

\* \* \* \* \*

In general, the provisions of the Internal Revenue Code of 1954 are applicable with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. Certain provisions of that Code are deemed to be included in the Internal Revenue Code of 1939. See section 7851.

(b) **Scope of regulations.** The regulations in this part deal with (1) the income taxes imposed under subtitle A of the Internal Revenue Code of 1954, and (2) certain administrative provisions contained in subtitle F of such Code relating to such taxes. In general, the applicability of such regulations is commensurate with the applicability of the respective provisions of the Internal Revenue Code of 1954 except that with respect to the provisions of the Internal Revenue Code of 1954 which are deemed to be included in the Internal Revenue Code of 1939, the regulations relating to such provisions are applicable to certain fiscal years and short taxable years which are subject to the Internal

Revenue Code of 1939. Those provisions of the regulations which are applicable to taxable years subject to the Internal Revenue Code of 1939 and the specific taxable years to which such provisions are so applicable are identified in each instance. The regulations in 26 CFR (1939) Part 39 (Regulations 118) are continued in effect until superseded by the regulations in this part. See Treasury Decision 6091, approved August 16, 1954 (19 FR 5167, C.B. 1954-2, 47).

§ 1.1-1 Income tax on individuals.

(a) **General rule.** (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable year beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax or individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970 see section 51(a).

(2) (i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of household, a married individual filing a separate return and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

This letter shall be used as a permanent part of any REGISTRATION CARD record. If such essential changes are listed or prescribed, the Bureau will notify.

TAXPAYER	Taxable years beginning		Taxable years beginning after 1964 but before 1971	Taxable years beginning after Dec. 31, 1970 (references in this column are to the Code as amended by the Tax Reform Act of 1969)
	in 1964	beginning after 1964 but before 1971		
Single individual	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(c)	
Head of a household	Sec. 1(b)(1)	Sec. 1(b)(2)	Sec. 1(b)	
Married individual filing a separate return	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d)	
Estates and trusts	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d)	

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively

connected with the conduct of a trade or business in the United States by a married alien individual who is nonresident of the United States for all or part of the

## Subchapter A.—Determination of Tax Liability

## Part

- I. Tax on individuals.
- II. Tax on corporations.
- III. Changes in rates during a taxable year.
- IV. Credits against tax.
- V. Repealed.
- VI. Minimum tax for tax preferences.
- VII. Environment tax.

In '86, P.L. 99-499, Sec. 516(b)(5), added Part VII.

In '76, P.L. 94-455, Sec. 1901(b)(2), deleted Part V.

In '69, P.L. 91-172, Sec. 301(b)(1), added Part VI.

In '68, P.L. 90-364 added Part V.

## PART I.—TAX ON INDIVIDUALS

## Sec.

1. Tax imposed.
2. Definitions and special rules.
3. Tax tables for individuals having taxable income of less than \$20,000.
4. Repealed.
5. Cross references relating to tax on individuals.

In '76, P.L. 94-455, Sec. 501(c)(1), amended item 3 and deleted item 4, which previously read "Optional tax tables for individuals" and "Rules for optional tax," respectively.

In '69, P.L. 91-172, Sec. 803(d)(9), amended items 2 and 3 which previously read "Tax in case of joint return or return of surviving spouse," and "Optional tax if adjusted gross income is less than \$5,000," respectively.

## Sec. 1. Tax imposed.

## (a) Married individuals filing joint returns and surviving spouses.

There is hereby imposed on the taxable income of—

(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$32,450.....	15% of taxable income.
Over \$32,450 but not over \$78,400	\$4,867.50, plus 28% of the excess over \$32,450.
Over \$78,400	\$17,733.50, plus 31% of the excess over \$78,400.

## (b) Heads of households.

There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$26,050.....	15% of taxable income.
Over \$26,050 but not over \$67,200	\$3,907.50, plus 28% of the excess over \$26,050.
Over \$67,200	\$15,429.50, plus 31% of the excess over \$67,200.

## (c) Unmarried individuals (other than surviving spouses and heads of households).

There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in

section 2(b)) who is not a married individual (as defined in section 7703), a tax determined in accordance with the following table: ~~and shall apply.~~

If taxable income is:	The tax is:
Not over \$19,450.....	15% of taxable income.
Over \$19,450 but not over \$47,050	\$2,917.50, plus 28% of the excess over \$19,450.
Over \$47,050	\$10,645.50, plus 31% of the excess over \$47,050.

## (d) Married individuals filing separate returns.

There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$16,225.....	15% of taxable income.
Over \$16,225 but not over \$39,200	\$2,433.75, plus 28% of the excess over \$16,225.
Over \$39,200	\$8,866.75, plus 31% of the excess over \$39,200.

## (e) Estates and trusts.

There is hereby imposed on the taxable income of—

- (1) every estate, and
- (2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$3,300.....	15% of taxable income.
Over \$3,300 but not over \$9,900	\$495, plus 28% of the excess over \$3,300.
Over \$9,900	\$2,343, plus 31% of the excess over \$9,900.

## (f) Adjustments in tax tables so that inflation will not result in tax increases.

(1) In general. Not later than December 15 of 1990, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

(2) Method of prescribing tables. The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year.

(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

(3) Cost-of-living adjustment. For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1989.

(4) CPI for any calendar year. For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

26 CFR part or section where identified and described	Current OMB control number	26 CFR part or section where identified and described	Current OMB control number
§ 1.1-1	1545-0067	§ 1.81-1E	1545-0074
§ 1.25-1T	1545-0922	§ 1.82-1	1545-0139
§ 1.25-2T	1545-0922	§ 1.83-1	1545-0074
§ 1.25-3T	1545-0922	§ 1.87-2T	1545-0110
§ 1.25-4T	1545-0922	§ 1.87-3T	1545-0118
§ 1.25-5T	1545-0922	§ 1.71-1T	1545-0074
§ 1.25-6T	1545-0922	§ 1.73-4	1545-0074
§ 1.25-7T	1545-0922	§ 1.72-6	1545-0074
§ 1.25-8T	1545-0922	§ 1.73-6	1545-0074
§ 1.31-2(a)	1545-0074	§ 1.72-17(a)	1545-0074
§ 1.37-1(c)	1545-0074	§ 1.72-17A(c)	1545-0074
§ 1.37-3(b)	1545-0074	§ 1.72-17A(e)	1545-0074
§ 1.41-4(b) and (c)	1545-0074	§ 1.72-18(b)	1545-0074
§ 1.42-1T	1545-0988	§ 1.79-2	1545-0074
§ 1.42-2T	1545-1005	§ 1.79-3	1545-0074
§ 1.43-2(b)	1545-0074	§ 1.83-2(b), (c), and (e)	1545-0074
§ 1.44A	1545-0088	§ 1.83-5(b)	1545-0074
§ 1.44A-3(a)	1545-0074	§ 1.103-10(b)(2)(iv)	1545-0940
§ 1.44B-1	1545-0219	§ 1.103-10(b)(2)(iv)(e)	1545-0123
§ 1.44C	1545-0214	§ 1.103-10(c)	1545-0123
§ 1.44C-5	1545-0780	§ 1.103-15AT	1545-0720
§ 1.44C-6	1545-0780	§ 1.103(r)-2T	1545-0874
§ 1.46-1(p)	1545-0123	§ 1.103(r)-4T	1545-0874
§ 1.46-5(e)(2)	1545-0155	§ 1.103A-2	1545-0720
§ 1.46-5(h)(4)	1545-0155	§ 1.105-4	1545-0089
§ 1.46-5(j)(9)(M)	1545-0155	§ 1.105-5	1545-0089
§ 1.46-5(o)(2)	1545-0155	§ 1.105-6	1545-0089
§ 1.48-3	1545-0155	§ 1.105-7	1545-0089
§ 1.46-11(g)	1545-0155	§ 1.105-8	1545-0069
§ 1.47-1(b)	1545-0188	§ 1.105-9	1545-0069
§ 1.47-1(e)(1)	1545-0188	§ 1.105-10	1545-0069
§ 1.47-1(f)(2)	1545-0188	§ 1.108(a)-1	1545-0048
§ 1.47-17(a)	1545-0155	§ 1.108(a)-2	1545-0048
§ 1.47-3(a)	1545-0188	§ 1.117-5	1545-0889
§ 1.47-3(f)	1545-0188	§ 1.119-1	1545-0067
§ 1.47-3(h)	1545-0155	§ 1.120-3(b)(1)	1545-0057
§ 1.47-4(a)	1545-0123	§ 1.120-3(d)(1)	1545-0057
§ 1.47-5(a)	1545-0092	§ 1.121-1	1545-0072
§ 1.47-8	1545-0099	§ 1.121-2	1545-0072
§ 1.50A-1	1545-0189	§ 1.121-3	1545-0072
§ 1.50A-2	1545-0189	§ 1.121-4	1545-0072
§ 1.50A-3	1545-0189	§ 1.121-5	1545-0072
§ 1.50A-4	1545-0189	§ 1.127-2	1545-0768
§ 1.50A-5	1545-0189	§ 1.132-1T	1545-0807
§ 1.50A-6	1545-0189	§ 1.132-2T	1545-0771
§ 1.50A-7	1545-0189	§ 1.132-5T	1545-0771
§ 1.50B-1	1545-0189	§ 1.149(a)-1T	1545-0720
§ 1.50B-2	1545-0189	§ 1.151-1(d)(3)	1545-0074
§ 1.50B-3	1545-0189	§ 1.152-3(c)	1545-0074
§ 1.50B-4	1545-0189	§ 1.152-4T	1545-0074
§ 1.50B-8	1545-0189	§ 1.162-1	1545-0139
§ 1.51-1(c)(3)	1545-0219	§ 1.162-2	1545-0139
§ 1.51-1(d)	1545-0219	§ 1.162-3	1545-0139
§ 1.52-1	1545-0219	§ 1.162-4	1545-0139
§ 1.52-1(b)	1545-0219	§ 1.162-5	1545-0139
§ 1.52-1(h)	1545-0219	§ 1.162-6	1545-0139
§ 1.52-2	1545-0219	§ 1.162-7	1545-0139
§ 1.52-3	1545-0219	§ 1.162-8	1545-0139
§ 1.52-4	1545-0074	§ 1.162-9	1545-0139
§ 1.56-1T	1545-0123	§ 1.162-10	1545-0139
§ 1.56A-1	1545-0174	§ 1.162-11	1545-0139
§ 1.56A-2	1545-0174	§ 1.162-12	1545-0139
§ 1.56A-3	1545-0174	§ 1.162-13	1545-0139
§ 1.56A-4	1545-0174	§ 1.162-14	1545-0139
§ 1.56A-5	1545-0174	§ 1.162-15	1545-0139
§ 1.57-5(a) and (b)	1545-0227	§ 1.162-16	1545-0139
§ 1.58-1(d)(2) and (e)	1545-0176	§ 1.162-17	1545-0139
§ 1.61-2T	1545-0907	§ 1.162-18	1545-0139
§ 1.61-2T O/A-20	1545-0771	§ 1.162-19	1545-0139
§ 1.61-4	1545-0187	§ 1.162-20	1545-0139

EXHIBIT B

This letter must be filed as a permanent part of my IRS/TDA/AIMS/IME 25C record. If such record(s) have/has been deleted or substituted, this demand still applies.

INITIAL \_\_\_\_\_



# 1998



Department of the  
Internal Revenue

## Instructions for Form 2555

### Foreign Earned Income

Section references are to the Internal Revenue Code.

#### General Instructions

**TIP:** Do not include on Form 1040, Line 57 (Federal income tax withheld), any taxes a foreign employer withheld from your pay and paid to the foreign country's tax authority instead of to the U.S. Treasury.

#### A Change To Note

The maximum foreign earned income exclusion for 1998 has increased to \$72,000.

#### What To Look for in 1999

The maximum foreign earned income exclusion for 1999 will increase to \$74,000.

#### Purpose of Form

If you are a U.S. citizen or a U.S. resident alien living in a foreign country, you are subject to the same U.S. income tax laws that apply to citizens and resident aliens living in the United States. But if you qualify, use Form 2555 to exclude a limited amount of your foreign earned income. Also, use it to claim the housing exclusion or deduction. You may not exclude or deduct more than your foreign earned income for the tax year.

You may be able to use Form 2555-EZ, Foreign Earned Income Exclusion, if none of your foreign earned income was from self-employment, your total foreign earned income did not exceed \$72,000, you do not have any business or moving expenses, and you do not claim the housing exclusion. For more details, see Form 2555-EZ and its separate instructions.

**Foreign country.** A foreign country is any territory (including the air space, territorial waters, seabed, and subsoil) under the sovereignty of a government other than the United States. It does not include U.S. possessions or territories.

**Note:** Specific rules apply to determine if you are a resident or nonresident alien of the United States. See Pub. 519, U.S. Tax Guide for Aliens, for details.

#### Who Qualifies

You qualify for the tax benefits available to taxpayers who have foreign earned income if both 1 and 2 apply.

1. You meet the tax home test (see this page).

2. You meet either the bona fide residence test (see page 2) or the physical presence test (see page 2).

**Note:** If your only earned income from work abroad is pay you received from the U.S. Government as its employee, you do not qualify for either of the exclusions or the housing deduction. Do not file Form 2555.

**Tax home test.** To meet this test, your tax home must be in a foreign country, or countries, throughout your period of bona fide residence or physical presence, whichever applies. For this purpose, your period of physical presence is the 330 full days during which you were present in a foreign country, not the 12 consecutive months during which those days occurred.

Your tax home is your regular or principal place of business, employment, or post of duty, regardless of where you maintain your family residence. If you do not have a regular or principal place of business because of the nature of your trade or business, your tax home is your regular place of abode (the place where you regularly live).

You are not considered to have a tax home in a foreign country for any period during which your abode is in the United States. However, if you are temporarily present in the United States, or you maintain a dwelling in the United States (whether or not that dwelling is used by your spouse and dependents), it does not necessarily mean that your abode is in the United States during that time.

**Example.** You are employed on an offshore oil rig in the territorial waters of a foreign country and work a 28-day on/28-day off schedule. You return to your family residence in the United States during your off periods. You are considered to have an abode in the United States and do not meet the tax home test. You may not claim either of the exclusions or the housing deduction.

#### Violation of Travel Restrictions

Generally, if you were in a foreign country in violation of U.S. travel restrictions, the following rules apply: (1) any time spent in that country may not be counted in determining if you qualify under the bona fide residence or physical presence test, (2) any income earned in that country is not considered foreign earned income, and (3) any housing expenses in that country (or housing expenses for your

spouse or dependents in another while you were in that country) are considered qualified housing expenses. See page 4 for a list of countries where U.S. travel restrictions apply.

#### Additional Information

Pub. 54, Tax Guide for U.S. Citizen Resident Aliens Abroad, has more information about the bona fide residence test, the physical presence test, the foreign earned income exclusion, housing exclusion and deduction. You can get this publication from most embassies and consulates or by writing to: Eastern Area Distribution Center, Box 85074, Richmond, VA 23261. You can also download forms and publications from the IRS Internet site at [www.irs.ustreas.gov](http://www.irs.ustreas.gov).

#### Waiver of Time Requirements

If your tax home was in a foreign country and you were a bona fide resident physically present in, a foreign country and had to leave because of war, civil unrest, or similar adverse condition, you may be able to waive the minimum time requirements specified under the bona fide residence and physical presence tests may be waived. You must be able to show that you reasonably could have expected to meet the minimum time requirements if you had not been required to leave. By March 1999, the IRS will publish in the Internal Revenue Bulletin a list of countries and the dates they qualify for the waiver. If you left one of the countries during the period indicated, you can claim the benefits on Form 2555, but only for the number of days you were a bona fide resident of, or physically present in, the foreign country.

If you can claim either of the exclusions or the housing deduction because of a waiver of time requirements, attach a statement to your return explaining that you expected to meet the applicable requirement, but the conditions in the foreign country prevented you from that normal conduct of business. Also, attach a "Claiming Waiver" in the top margin of page 1 of your 1998 Form 2555.

#### Where To File

Send your return to the Internal Revenue Service Center, Philadelphia, PA 19255-0207.

Exhibit T



Department of the Treasury  
Internal Revenue Service

AUTHORIZATION/DISCLOSURE FORM

Congressional Office:

Congressman Rob Portman  
8044 Montgomery Road, Suite 540  
Cincinnati, Ohio 45236  
(513) 791-0381-Telephone  
791-1696-Fax

*your  
congress-  
man  
name &  
address*

Office Contact Person: Lissa Harrison

Taxpayer Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_

Husband: \_\_\_\_\_ Wife: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Employer Identification Number: \_\_\_\_\_

Type of Tax: \_\_\_\_\_

Description of Problem: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under the Authority of Internal Revenue Code Section 6103(C), I, the undersigned, authorize the above-named person and/or his/her staff, to investigate and receive information pertaining to the matter described above.

\_\_\_\_\_  
Taxpayer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Taxpayer Signature

\_\_\_\_\_  
Date

SECTION II - DEMAND FOR MEETING WITH THE PROBLEM RESOLUTION OFFICER OF THE INTERNAL REVENUE SERVICE.

I am demanding a due process administrative hearing with the local problem resolution officer for the Internal Revenue Service in our service area. I will be accompanied by two (2) qualified witnesses who will competently testify in my behalf. Also, I will bring two (2) tape recorders to make an audio record of the meeting. In addition, I will present to the Problem Resolution Officer the facts as stated in Section II, (previous) by cite, statute and/or order, and posing the following inquiries and production of documents:

*1 court Reporter*

1. Please produce the instrument(s) that contain my signature, obligating me to your demand under Agreement.
2. Please provide me with proof of your claim that you maintain a security interest, in or against my person/property to substantiate that you are a Holder, authorized to make a presentment.
3. Please provide evidence of your authority to make a Territorial Application that I have agreed upon, which contains my signature.
4. I demand assurances as to your delegation of authority to operate in a Union State, in a municipal capacity, and provide the Delegation Order that comes directly from the Secretary in regards to a private Citizen in the State of Ohio.
5. I have previously declared and affirmed my status that I am an unenfranchised nonresident alien, and not a "person" described in 26 USC 7343. Please provide me with a copy of the source of my income and describe the exact "geographical" part of the statutorily defined "United States." Substantiate your presumption based on an agreement or any other document to refute my claim.
6. What presumption(s) are you working with which makes you believe I, a unenfranchised Citizen in the State of Ohio, am effectively connected with a trade or business statutorily defined "United States"?
7. Please identify all employees and supply employee ID numbers who determined that I am a Taxpayer having a federal tax liability and also, produce a copy of the return calculated by the Secretary (26 USC 5020) signed with a pen.
8. Please provide the negotiable instrument(s) I was required to sign, that would make me a holder in due course.
9. Which principal are you working for in this instance, the Federal Reserve System, the United States, the International Monetary Fund, the World Bank, the Import Export Bank or others?
10. Provide the documents to support your presumptions I earned income from a source within the statutorily defined "United States" or that I am effectively connected with a trade or business with the statutorily defined "United States". Please see 26 CFR 1.871-1(b)(1), 26 USC 6013 (1)(a)(C)(i), 26 USC 2(d), and others.
11. Provide the documents from the Internal Revenue Code, the Code of Federal Regulations, United States Statutes at large, or Public Law that supports the IRS contention that a 1040 or 1040A is a type of tax.
12. Provide the documents from the Attorney General under 26 I R C 7401 which authorized anyone from the alleged IRS to send any correspondence to me.
13. Provide the documents which grants any U.S. attorney the authority to prosecute an Internal Revenue Code subtitle A income tax case, be it civil or criminal.
14. Provide me with a copy of the letter in which the District Director ordered me to keep records per 26 I R C 6001, and what type of books and records to keep. See US vs Mercer, Sixth Circuit District Court, Cincinnati, Ohio, 1996.
15. Provide me with a copy of the correct affidavit that has been filed stating that I have an IRS tax deficiency.
16. Provide me with a copy of the Foreign Agents Registration Statement for the District Director and all agents involved in this matter, as per Title 22, USC, section 611 and Public Law 89-486.
17. Provide the documents that authorizes anyone in the IRS to file a Substitute For Return (SFR) per IRC 26-6020b.
18. Please send me a copy of the 23C Notice relevant to this matter.

Failure to provide me with the requisites and/or other pertinent information, invalidates the presentment you made to me.

V.I.P.L.  
C/O BOX 463  
OWENSVILLE, OHIO  
P. Z. 45160

*If you would like to receive the entire document that goes with this information, please send \$30.00 to Response letter package*

## TO: ALL AMERICANS ----- FROM: YOUR CORRUPT GOVERNMENT

We would like to thank each and every one of you for your **voluntary** participation in the most abusive tax system this country has ever seen. We realize that it takes extremely unique individuals who are willing to subject themselves to such abusive taxes while keeping their lips sealed but you have all been good sports and we, who depend, on your many tax contributions for our very survival, are grateful for your patriotic sacrifice.

With your cooperation we have been able to **seize** about one third of your wages before you ever see a paycheck. Your employers have been very submissive in assisting us with the collection of these taxes. Then we have the matter of property taxes which you have so kindly paid, knowing full well that if you don't pay them we will promptly sell your home or farm at a tax auction. We have provided you with easy credit as it is to our advantage to keep you deep in debt. The excessive debt that you have assures us that you will keep working even harder to pay those debts and the harder you work the more taxes and interest we are able to extort. Every time you purchase any product you so willingly pay those sales taxes. It's difficult to believe that God created creatures who are so mindless and spineless at the same time, but who's complaining? We applaud your continued and **unquestioning servitude**.

We have burdened you with federal taxes, state taxes, local taxes, medicare taxes, and social security taxes just for starters. Then we demand all the property taxes we want by merely threatening to seil your home or farm and you simply dash to the court house to pay those taxes even faster than we ever imagined possible. Then we allow corporations to pass all their taxes along to you each time you buy food, clothing, appliances, etc. indirectly imposing consumption taxes on you unbelievably obedient taxpayers. To squeeze that last nickel out of each of you we have sanctioned the banks to charge you interest rates that are so abusive (especially credit cards) that even the loan sharks are envious. We have created many types of license fees, permits, and fines just in case you had any money left. When you add up all the taxes, interest, permits and license fees we are extorting almost 80% of what you earn, and, even though we appreciate your sacrifice, we won't be satisfied until we have it all, and, with your continued participation, we will !!

All of us state and federal employees who depend on your tax dollars to finance our paychecks are pleased with your willingness to continue sending so much tax money. We realize that other than being a burden on you dirt poor taxpayers we don't really make much of a contribution to society. Our friends in corporate America are equally grateful each time we approve a multi-billion dollar subsidy and then let you pay for it. But our friends in corporate America are very generous at campaign time so you understand, don't you? With your tax dollars we have been able to silence tens of millions of Americans who can't find work or don't really want to work by merely paying them off with food stamps and welfare checks. You can bet they're going to keep us in office as were helping them to pick your pocket. While you're sweating in the factories they're sitting at the fishing hole cooking that steak you paid for - you are truly unique taxpayers.

For all of you who think you can escape our tax schemes by starting your own business, think again. We have made it almost impossible for the average American to go into business and make a profit. When you add up all of the time and money you're going to have to spend just on compliance, record keeping and reporting to state and federal agencies you won't have time to run your business let alone make a profit. It's to our benefit to have you employed, rather than self employed, as it is so much easier to collect all those taxes.

The beauty of this whole system is that you have no idea just how much money we are collecting or where it is going. We simply keep telling you fools that we don't have enough and you go on sending us more. We have been a little concerned over that historical incident when George Washington and those tax protesting Militia types took exception to the king's tax extortion racket. We anticipated a similar problem with our **extortion racket**. However, we no longer have any such concerns as, even though most of you own guns, it is now obvious that most of you don't have the guts to pick them up. We could probably take your entire paycheck and you fools would never say a thing as long as we sufficiently threaten you with fines and imprisonment. Given just a little more time and your continued cooperation America won't be much different than any other country, unless, however, that damn militia gets in the way again. But that probably won't happen because our friends at CNN have been working very hard to make sure that most of you groveling taxpayers believe that they are terrorists. People who stand for nothing will fall for anything - especially servile taxpayers like you.

We realize that these abusive taxes place an enormous hardship on you and your family but we don't want to see Christians or Christian values get in the way of making money so we are going to do pretty much what ever it takes to continue collecting these taxes and if you resist we will merely reserve a room for you in one of our new prisons and then you can live off the tax dollars just like we do. The only difference between us and those collecting welfare is that we pay ourselves much better, after all, we must be more ruthless and that can tax one - if you know what I mean. Don't be discouraged, however, as you will eventually die - it's just so sad that so many of you are going to die as penniless cowards in a land that was once free, but who's complaining - If it wasn't for cowards like you we couldn't live like we do.

# Social Security Number Record Request for Extract or Photocopy

Mail to: Office of Central Records Operations  
Baltimore, Maryland 21235

Refer to: SPPE-1

INSTRUCTIONS - Print or type all data. Sign in ink. Allow 4 to 6 weeks for a reply.

I HEREBY REQUEST AN EXTRACT OR PHOTOCOPY OF MY APPLICATION(S) FOR A SOCIAL SECURITY NUMBER. TO ESTABLISH MY IDENTITY AND TO VERIFY MY SOCIAL SECURITY NUMBER I AM FURNISHING MY FULL IDENTIFYING INFORMATION, AS FOLLOWS:

SOCIAL SECURITY NUMBER (if known)	
FULL NAME NOW USED	
NAME SHOWN ON LAST SOCIAL SECURITY CARD (if different from full name now used)	
FULL NAME AT BIRTH	
DATE OF BIRTH (month, day, year)	SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE
PLACE OF BIRTH (city, county, and state or foreign country)	
FULL MAIDEN NAME OF MOTHER (whether living or dead)	
FULL NAME OF FATHER (whether living or dead)	

### PENALTY STATEMENT (read before signing)

I am the person to whom this record pertains and I understand that to knowingly and willfully petition or acquire information from another person's social security record under false pretenses is a criminal offense subject to a \$5,000 fine.

SIGNATURE (do not print unless this is your usual signature)	DATE
STREET ADDRESS	
CITY, STATE, AND ZIP CODE	

NOTE: A printed signature or a signature by mark (X) must be witnessed below by two adults

(1) SIGNATURE	(2) SIGNATURE
STREET ADDRESS	STREET ADDRESS
CITY, STATE, AND ZIP CODE	CITY, STATE, AND ZIP CODE

to attach or garnish plaintiff's social security benefits in violation of social security law. *Sokolnick v. Harlow*, C.A.1 (Mass.) 1987, 820 F.2d 13.

#### 29. State taxation

"Levy," as used in federal statute stating that social security benefits shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, refers to enforcement of judgment or other legal process involving collection of debts through execution, attachment, gar-

nishment, or levy, and does not prohibit state taxation of social security benefits. *Boersma v. Karnes*, 1988, 417 N.W.2d 341, 227 Neb. 329, appeal dismissed 109 S.Ct. 29, 102 L.Ed.2d 9.

#### 30. State regulation or control

Antiassignment and antilegal process provisions in Social Security Act, with their specific allowance for spousal support, promote federal uniformity and preempt state law. *Olson v. Olson*, N.D.1989, 445 N.W.2d 1.

### § 408. Penalties

#### (a) In general

Whoever—

(1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of Title 26) as to—

(A) whether wages were paid or received for employment (as said terms are defined in this subchapter and Title 26), or the amount of wages or the period during which paid or the person to whom paid; or

(B) whether net earnings from self-employment (as such term is defined in this subchapter and in Title 26) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(2) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(3) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(4) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(6) willfully, knowingly, and with intent to deceive the Secretary as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Secretary with respect to any information required by the Secretary in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Secretary (in the exercise of his authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Secretary by him or by any other person; or

(B) with intent to deceive, falsely represents a number to be the social security account number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person; or

(C) knowingly alters a social security card issued by the Secretary, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;

shall be guilty of a felony and upon conviction thereof shall be fined under Title 18 or imprisoned for not more than five years, or both.

Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under Title 18 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

#### (b) Effect upon certification as payee

Any individual or entity convicted of a felony under this section or under section 1383a(b) of this title may not be certified as a payee under section 405(j) of this title.

#### (c) Definitions

For the purpose of subsection (g) of this section, the terms "social security number" and "social security account number" mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.

#### (d) Aliens

(1) Except as provided in paragraph (2), an alien—

(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of Title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

(B) whose status is adjusted to that of permanent resident—

(i) under section 202 of the Immigration Reform and Control Act of 1986, or

(ii) pursuant to section 1259 of Title 8, or

(C) who is granted special immigrant status under section 1101(a)(27)(I) of Title 8,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.

(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C) of this section) consisting of—

(A) selling a card that is, or purports to be, a social security card issued by

FOR IMMEDIATE RELEASE CONTACT: RON DUSEK, WARD TISDALE, OCTOBER 20, 1997  
SONYA SANCHEZ OR LETICIA VASQUEZ

### MORALES ENDS "PAPER TERRORISM" OF INTERNAL REVENUE SERVICE

Texas Attorney General Dan Morales, as well as attorney generals in both Oregon and Florida have succeeded in pushing bills through their respective state legislatures to end the "Paper Terrorism" of IRS's "Notice of Federal Tax Lien" and "Notice of Levy". Their intent was to eliminate only the "anti-government groups" use of judgments and liens to harass state and federal officials. They seem to have forgotten, however, that the Internal Revenue Services' actions fall into the same category they have provided for groups opposing the actions of state and federal governments. No one in state government seems to have remembered that IRS liens are (1) fraudulent, (2) unsupported by federal court judgments, (3) done without delegated authority, (4) by the wrong agency, (5) in violation of state laws against garnisheeing wages, and (6) in violation of the Deceptive Trade Practices - Consumer Protection Act.

The new law:

- ① bars the IRS from using deception and from tricking public officials into recording bogus judgments, liens or other such documents.
- ② bans the use of fake summonses, judgments, complaints or other bogus court documents to trick you into paying a claim or to coerce you into taking some action in response to the document.
- ③ makes it a crime to maintain a bogus lien or claim against citizens after the release is requested. If they do not cancel the bogus lien within 21 days, it is considered proof that they intend to harm or defraud you.
- ④ makes it a felony to knowingly set up a bogus federal court or to impersonate a state or federal magistrate or exercise the functions of these public offices.
- ⑤ makes using a record of a fraudulent (federal) court a crime. A first offense is a Class A Misdemeanor; subsequent offenses are felonies.
- ⑥ bans the filing of bogus, forged or fraudulent financing statements, notices and levies.

# Words and Phrases

## 32A West Publishing Co.

### PLEA TO THE JURISDICTION

be waived, if not raised before the jury is sworn. Code, § 5325, par. 1, provides that the defendant may demur to an indictment when it appears upon its face that it does not substantially conform to the requirements of the Code. Section 5327 declares that the only "pleading" on the part of defendant is a demurrer or plea. Section 5323 allows defendant but three pleas to an indictment: Guilty, not guilty, or former acquittal or conviction; and sections 5326 and 5341 provide that, where an indictment is defective or insufficient, judgment thereon will not operate as a bar; but the Code nowhere expressly provides for a plea in abatement to an indictment. Defendant, in a prosecution under section 4842 for embezzlement of money collected as an agent, demurred to the indictment in the language of section 5325, par. 1. Held, that the term "pleading," expressly including a demurrer, was synonymous with "plea," which means an allegation by a party in support of his cause; a pleading; that which is alleged or pleaded, in defense, excuse, or justification; and hence that the demurrer, while not a "plea to the indictment" was a "plea in abatement," within the statute, so as to allow the objection raised by the demurrer to be made by a motion in arrest of judgment. *State v. Duggs*, 147 N.W. 234, 236, 166 Iowa, 452.

### PLEA TO THE JURISDICTION

A "plea to the jurisdiction" in its strict sense is one by which defendant excepts to power of court to entertain the action for lack of jurisdiction of subject matter or of person of defendant. *Johnson & Wight v. Nickard*, 52 A.2d 756, 757, 115 Vt. 115.

A motion to dismiss on the ground that none of the defendants resided in the county of suit or was served with process therein, being a "plea to the jurisdiction", must be made by the parties personally and not by their attorneys, and such motion in reciting that it was made by defendants' attorneys admitted the jurisdiction of the court. *Consolidated Gasoline Co. v. Lexow*, 44 N.E.2d 227, 228, 316 Ill.App. 257.

A paper filed at pretrial hearing, in action for wrongful death, alleging that action could not be maintained because plaintiff administratrix had elected to claim workmen's compensation for the death and because

### PLEA TO THE JURISDICTION

compensation insurer had neither paid nor agreed to pay compensation until after action was instituted, was not a "plea to the jurisdiction," since there was no doubt of court's jurisdiction of parties and subject matter, and was not a "motion to dismiss," since it introduced matter not apparent on the face of the record. *Furlong v. Cronan*, 26 N.E.2d 352, 354, 305 Mass. 464.

A "plea to the jurisdiction," though denominated a plea in abatement, differs from it by partaking sometimes of the character of a plea of privilege. *Minch & Biscombrey Co. v. Cram*, 110 A.204, 205, 156 Md. 122.

A "plea to the jurisdiction" is an affirmative plea, for it is only by asserting an affirmative position that the plea can prevail. On the trial of an issue of fact raised by a plea to the jurisdiction the burden is on defendant to establish the averments of his plea. *Pyron v. Ruols*, 48 S.E. 434, 435, 129 Ga. 1060.

A demurrer to the jurisdiction of the court is a "plea to the jurisdiction," within the meaning of an action precluding appellate courts for proceeding to a reversal for want of jurisdiction unless a plea to the jurisdiction is filed in the court below. *Pryor v. Adams*, Va., 1 Call, 382, 391, 1 Am.Dec. 533; *Tate's Dig.* 335.

A motion in the municipal court, supported by affidavits to dismiss the cause and quash the attachment, which, under Municipal Court Rule, 12, is equivalent to a plea in abatement setting up the same ground in the circuit court, is not a "plea to the jurisdiction" within the rule that a plea to the jurisdiction, signed by an attorney and not in person or by an agent, waives objections to the jurisdiction. *Charles Friend & Co. v. Goldsmith & Seidel Co.*, 135 N.E. 157, 158, 307 Ill. 45.

"In equity, 'pleas to the jurisdiction' simply assert that the court of chancery is not the proper court to take cognizance of the rights sought to be enforced by the complainant." A defendant may take advantage of insufficient service of process in a suit in chancery by a plea to the jurisdiction reciting a special appearance. Upon a hearing upon bill and plea raising a question of jurisdiction, the merits may not be gone into further than is necessary to determine the

question of jurisdiction. *Groel v. United Electric Co. of New Jersey*, 60 A. 822, 69 N.J.Eq. 397, citing 1 Daniell, Chan.P. Pr.(6th Am.Ed.) p. 621, star page 627.

"The distinction between 'pleas to jurisdiction' and 'pleas in abatement,' which prevailed at the common law, has not been recognized by this court. It follows, therefore, that 'pleas to the jurisdiction,' like ordinary pleas in abatement, may be put in attorney without admitting jurisdiction to the person. The same result follows from the provisions of circuit court rule 6. Having provided that a plea of the general issue may be filed with a plea in abatement, which could certainly be signed by attorney without waiving the plea in abatement, it would seem illogical to hold that the ordinary plea must be signed by the party in person." *Fell v. Gorman*, 105 N.W. 252, 25 144 Mich. 521, citing 1 Chit.Plead.(10th Ed.) pp. 503, 588; *National Fraternity v. Circuit Judge*, 80 N.W. 540, 127 Mich. 186.

Plea of prior action for divorce pending in state court to wife's action in federal court against husband for money due under separation agreement held "plea in abatement" and not "plea to the jurisdiction" of the court, and order overrule demurrer to such plea, abating the action on wife's refusal to plead further, and granting husband judgment for costs, was not appealable. 28 U.S.C.A. § 2105. *McLille v. McLille*, C.C.A.Ind., 78 F.2d 351, 354.

### PLEA TO THE PERSON

In equity, "pleas to the person" assert that the complainant is incapacitated to sue, or that the defendant is not the person who ought to be sued. *Groel v. United Electric Co. of New Jersey*, 60 A. 822, 825, 69 N.J.Eq. 397, citing 1 Daniell, Chan.P. & Pr.(6th Am.Ed.) p. 621, star page 627.

### PLEBISCITES

The 1916 and 1917 elections in occupied Japan were "plebiscites" and not "political elections" within statute providing for loss of citizenship by voting in political election in foreign state. *Kunizuki v. Acheson*, D.C. Wash., 94 F.Supp. 255, 365.

# Many abusers go free

## County outpaces city in convicting domestic offenders

BY ANNE MICHAUD  
The Cincinnati Enquirer

Conviction rates in domestic-violence cases remain disturbingly low, officials said, in spite of a tougher law aimed at prosecuting the crime without the victim's testimony.

Statistics prepared for a report to be published in February show that municipal court cases handled by the Cincinnati prosecutor result in a conviction 34 percent of the time. The Hamilton County prosecutor's rate is 50 percent.

"This disturbs me," said Hamilton County Commissioner

### Cases drop

The number of domestic violence cases filed in Hamilton County Municipal Court has dropped since a tougher law went into effect in March 1995.

Cincinnati:	
1995	4,800 cases
1996	3,950 cases
1997	2,950 cases
Outside the city:	
1997	726 cases

Sources: Cincinnati City Prosecutor,  
Hamilton County Prosecutor

John Dowlin. "It appears the issue is, without the testimony of the complainant (victim), the case does not stand up."

The county conviction rate is better because police and prosecutors are coming in better

prepared, said Municipal Court Judge Tim Black.

City figures show the number of cases is dropping off since the new state law took effect in 1995.

City Prosecutor Terry Cosgrove said more victims came forward immediately after the law was passed, believing they would not have to testify.

"People thought that the police would handle everything, but you still need evidence of a crime," Mr. Cosgrove said. "When a husband says to a wife, 'I'm going to kill you,' and no one else is there, where's the evidence?"

The 1995 law encourages arrest, whether the evidence is strong or just marginal, he said.

(Please see ABUSE.  
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Sat Jan 24, 1998  
Cinti. Enquirer

## Abuse: Area conviction rates low

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"If you have to take every case that comes in the door, whether it's a strong case or not, I doubt very much you're going to get a high conviction rate," Mr. Cosgrove said.

The law — which is known as preferred arrest — made it the norm to make an arrest in domestic-violence situations. Police can still decide not to arrest either party, but they must now file a written report saying why they decided against it.

The law is the same for every Ohio police department, but there are differences in how it is put into practice.

Theresa Adair, director of the YWCA's Family Violence Project, said she hesitates to point fingers to explain the low conviction rate.

"Certainly in the city's case

the numbers are low, but they handle a lot of cases," she said. "Certainly, they could improve, but it takes time for everyone to get on the same page."

She and about 60 other law enforcement, court and community leaders serve on the Domestic Violence Coordinating Council of Hamilton County, where city and county prosecutors aired statistics this week in preparation for the February report.

County Prosecutor Joseph Deters declined to comment on the numbers.

Judge Black, head of the domestic-violence council, said Cincinnati's sheer volume of cases may give officers less time to dig up evidence.

"The county officers, in particular, are coming in with 911 tapes, photographs and statements of the participants at the time of the event, and they're

prepared to go forward," he said Friday.

"In part, I would agree with that," said Cincinnati Police Officer Jim Brown, who runs the domestic-violence training program at the police academy.

He said officers gathered just 188 recordings of 911 calls as evidence in 1997.

"Just looking at the figures, if all we have is 188 tapes, I can't help but believe we're missing the boat," Officer Brown said.

He said many senior officers are stuck in old habits. Traditionally, domestic violence was not treated as a crime. Officers responding to calls didn't make arrests, and when they did, they were discouraged by the high dismissal rate because the victim did not pursue the case.

Ms. Adair said she has seen "incredible changes" for the better in how police have treat-

ed domestic violence over the past five years.

Domestic-violence cases make up one-third of the municipal court docket, said Judge Black, and half of them are dismissed.

The high dismissal rate arises out of the victim's unwillingness to go to court, he said, which is a failing in the law. "The purpose of the new law was to take the focus off the victim and put it on the state the way it is with other crimes."

Victims, mostly women, fear retaliation. But the largest single factor is economic. The abuser is often the breadwinner of the family, Judge Black said, and if he is locked up, the family's food and shelter are in jeopardy.

Thursday Jan. 22, 1998

# Cuyahoga sting nabs 44 officers

• FBI agents pose as traffickers, leading to arrest of officers who allegedly took cash to help dealers

BY MELANIE PAYNE AND MARGARET NEWKIRK  
*Beacon Journal Staff Writers*

CLEVELAND: FBI agents posing as cocaine traffickers ran a sting operation that led to the arrests yesterday of 44 current and former law enforcement officers for allegedly taking payoffs to protect drug deals and narcotics shipments.

Federal agents released a 99-page affidavit outlining the charges and revealing stunning details of a sting operation where officers were paid between \$750 and \$3,760 each time they protected a drug shipment or deal.

"We're not talking a free cup of coffee . . ." said Joseph Persichini Jr., assistant special agent in charge of the FBI Cleveland division. "We're talking about walking

in and saying, 'Will you protect 25 kilos of cocaine?'"

One East Cleveland police officer, Freddie Cody Jr., was allegedly late for his drug trafficking "security detail" because he was giving a presentation for the DARE program, a police-sponsored drug prevention program for youths, authorities said.

Those arrested included 24 Cuyahoga County corrections officers, one Cuyahoga County sheriff's deputy, one former Cuyahoga County corrections officer, seven Cleveland police officers, six East Cleveland police officers, three Cleveland Heights police officers and two Brooklyn police officers.

Eight people, whom FBI special agent in charge Van A. Harp re-

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## AKRON

The Beacon Journal

## STING

• Northfield, Hudson men face conspiracy charges

Continued from Page A1

ferred to as "imposters," were also arrested.

The "imposters" had allegedly posed as law enforcement officers but were not. A Parma man, employed as a bouncer at Fagan's restaurant in the Flats, also allegedly served on the "security detail" and was arrested.

All of the individuals were charged with conspiracy to distribute cocaine.

Seven more people, including Summit County residents Angelo Santamaria, 35, of Northfield, and John Vecchio, 35, of Hudson, were arrested on charges stemming from a separate part of the investigation concentrating on organized crime. Each was charged with one count of conspiracy to transport illegal gambling devices.

Organized crime was the focus of the investigation when it began more than 21 years ago, Persichini said.

The FBI brought in an undercover agent who posed as a "La Costa Nostra associate," Persichini said, who gained the confidence of Cleveland organized crime suspects. The agent then met Michael "Guido" Joye, who the FBI alleges offered to sell cocaine to the

agent. At the time, Joye was a corrections officer in the Cuyahoga County Sheriff's Office.

Persichini said Joye's next offer was even more surprising. Joye allegedly offered to recruit a band of law enforcement officers to protect the agent's cocaine operations.

"I can provide all the law enforcement people you want," Persichini recalled Joye saying. "Our response was, 'This is ridiculous,'" Persichini said.

But over the next 14 months, Joye allegedly delivered on his promise.

According to the FBI affidavit, Joye recruited other law enforcement officers to act as "bodyguards" for various drug transactions.

The affidavit also includes excerpts from tape recording transcripts in which police officers joke about assaulting prisoners in their custody and even arranging to have a suspect beat up in jail because he crossed a drug pusher.

Law enforcement officers even mocked the consequences of being caught, according to the affidavit. "Who cares, dude? It's only one year in the federal pen. Big (expletive) deal," one Cleveland police officer said.

Persichini said each officer involved was given the opportunity to back out.

"We tell them our business, that we are drug dealers. We tell them you're going to protect our drug load from law enforcement action or from people who try to

rip our drugs off."

"No one was led down a primrose path," Persichini insisted. "They were told what they were doing."

None of the officers refused to participate, Persichini said. In fact, some were eager to comply, even though they believed they were protecting large shipments of cocaine and marijuana.

Persichini, Harp and Emily M. Sweeney, U.S. attorney for the Northern District of Ohio, stressed that the charges were against individuals - not entire police departments.

Cleveland Mayor Michael White said he does not believe the arrests reflect on the leadership of the city police department.

"I think we need to keep in mind that we regard these as unconscionable acts of a few Cleveland police officers . . ." White said.

The most senior of the seven Cleveland officers arrested had been on the force only since 1991, said police Sgt. James Davidson. "They were all very young," he said.

Five of the seven were arrested when they showed up for work yesterday morning, Davidson said. A sixth was arrested at the police shooting range and the seventh was arrested at home.

The officers will have a hearing and will likely be suspended without pay until their criminal cases are adjudicated, he added.

The damage to morale and public opinion is done and will be

difficult to abate, said James Fyfe, a professor of criminal justice at Temple University and an expert in the field of police department corruption.

"It's a painful thing for a cop," Fyfe said. He was a New York City police officer during the 1970s, a time of widespread corruption in the force. "I still get jokes," he said. "It's kind of offensive."

Although Fyfe contends that the drug trade and police corruption go hand-in-hand, there are a number of safeguards that police departments can implement to ward off temptation, he said.

The police departments need to look at this situation as an opportunity to institute change, Fyfe said. One suggestion is to hire officers who are older. "If you hire a young person, you can't check (his) background," Fyfe said. He has no long work history or proof that he is a "solid citizen," Fyfe said.

Police departments also need to institute a mechanism for anonymous reporting, a way to break through "the blue wall of silence" that Fyfe said exists in every organization.

The number of officers involved could not have gone unannounced by other, uninvolved officers, he said. "It's very difficult for cops to take money without others knowing about it."

Beacon Journal staff writer David Adams contributed to this report.

# PSYCHIATRY ERADICATING JUSTICE

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- Overloaded courts and the erosion of justice has a hidden source, a group of professionals who have infiltrated and subverted the law and become a pernicious intruder in our justice system. Page 2
- The “insanity defense” has turned us into a nation of victims, where even the guilty are prey. Psychiatrists have given criminals a thousand excuses for why “it wasn’t my fault.” Page 4
- Psychiatrists, like hired guns, provide testimony in courts for the highest bidder and are simply wasting the court’s time. Pages 6, 8, 9
- The largest number of murderers come from the 15- to 19-year-old age group: have our education systems been teaching our children to be criminals? Page 10
- Today, in order to solve the increasing violent crime rate, it is estimated that more than 5 million police officers for just the United States would need to be hired. Page 14
- Since the 1960s, psychiatric drugs have ended up on the street, escalating the violent crime rate in countries around the world. Police are facing a losing battle unless things change. Page 15
- Psychiatric ability to predict dangerousness or to agree on a diagnosis is about as scientific as reading tea leaves. Page 20
- Courts have been deferring to psychiatrists as experts when these “professionals” have the highest suicide rate and drug abuse rate and openly admit to raping their patients. Page 26
- Psychiatry’s opportunity to prove itself has failed. It is time to rid ourselves of psychiatric influence in our courts, our police departments and in our schools. Page 28

# SUPREME COURT OF THE UNITED STATES

## Syllabus

### BRISCOE ET AL. v. LAHUE ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SEVENTH CIRCUIT

No. 81-1404. Argued November 9, 1982—Decided March 7, 1983

*Held:* Title 42 U. S. C. § 1983 (1976 ed., Supp. IV) does not authorize a convicted state defendant to assert a claim for damages against a police officer for giving perjured testimony at the defendant's criminal trial. Pp. 4-19.

(a) The common law provided absolute immunity from subsequent damages liability for all persons—governmental or otherwise—who were integral parts of the judicial process. Section 1983 does not authorize a damages claim against private witnesses. Similarly, judges, *Pierson v. Ray*, 386 U. S. 547, and prosecutors, *Imbler v. Pachtman*, 424 U. S. 409, may not be held liable for damages under § 1983 for the performance of their respective duties in judicial proceedings. When a police officer appears as a witness, he may reasonably be viewed as acting like any witness sworn to tell the truth, in which event he can make a strong claim to witness immunity. Alternatively, he may be regarded as an official performing a critical role in the judicial process, in which event he may seek the benefit afforded to other governmental participants in the same proceeding. Nothing in § 1983's language suggests that a police officer witness belongs in a narrow, special category lacking protection against damages suits. Pp. 4-10.

(b) Nor does anything in the legislative history of the statute indicate that Congress intended to abrogate common-law witness immunity in order to provide a damages remedy under § 1983 against police officers or any other witnesses. Pp. 10-15.

(c) There is some force to the contentions that the reasons supporting common-law witness immunity—the need to avoid intimidation and self-censorship—apply with diminished force to police officers and that police officers' perjured testimony is likely to be more damaging to constitutional rights than such testimony by ordinary citizens. But immunity

analysis rests on functional categories, not on the defendant's status. A police officer witness performs the same functions as any other witness. Moreover, to the extent that traditional reasons for witness immunity are less applicable to governmental witnesses, other considerations of public policy support absolute immunity for such witnesses more emphatically than for ordinary witnesses. Subjecting government officials, such as police officers, to damages liability under § 1983 for their testimony might undermine not only their contribution to the judicial process but also the effective performance of their other public duties. Pp. 15-19.

663 F. 2d 713, affirmed.

STEVENS, J., delivered the opinion of the Court, in which BURGER, C. J., and WHITE, POWELL, REHNQUIST, and O'CONNOR, JJ., joined. BRENNAN, J., filed a dissenting opinion. MARSHALL, J., filed a dissenting opinion, in which BLACKMUN, J., joined except as to Part I. BLACKMUN, J., filed a dissenting opinion.

Send 122 to VIP, Box 463, Owensville, Ohio  
45160 for a copy of this case.

## THE TWO UNITED STATES

NAME	The Continental United States of America	The Federal United States
<b>TYPE OF GOVERNMENT</b>	Constitutional Republic	Legislative democracy
<b>TERRITORY (VENUE)</b>	A union of 50 independent sovereign States, not including the District of Columbia, territories or enclaves	The District of Columbia and all the territories and enclaves (American Samoa, Guam, Midway Islands, Puerto Rico, Wake Island, etc.)
<b>CAPITAL</b>	The union of the United States is the only country in the world with no national capital within its venue. Each sovereign State has its own capital.	Since June 1800, a "City of Washington" sits in the federal District of Columbia, which is exempt from all State influence and jurisdiction. The city is ruled by a federal Commission appointed by the President. It has no local legislature; the only legislative authority is Congress. It is the meeting place of Congress and is the seat of federal administration.
<b>CREATED BY</b>	"We the People," free Preamble sovereign citizens	Article I, Section 8, clause 17 of the U.S. Constitution
<b>CITIZENRY</b>	Each State has rule over its own citizenry, made up of free Preamble persons: "We the People... and our Posterity."	The citizens of the District of Columbia, all the territories, enclaves and possessions, and all naturalized citizens (XIVth Amendment, Section 1)
<b>EXECUTIVE BRANCH</b>	President	President
<b>LEGISLATIVE BRANCH</b>	A Congress of the Republic consisting of representatives from the citizenry	A Congress of the Legislative Democracy—the same persons
<b>CONGRESS' JURISDICTION</b>	The States only, not the citizenry of the States except under some form of Commercial Agreement	The citizenry of DC, the territories, enclaves, and possessions, naturalized citizens, and those who put themselves under the rule of federal regions
<b>JUDICIAL JURISDICTION</b>	Law, equity (Article III courts) and admiralty	Colorable admiralty (called statutory), Article I legislative courts
<b>AUTHORIZED CURRENCY</b>	Real money, based on substance: gold and silver (Article I, Section 10, clause 1)	Promises-to-pay money, based on bank credit: Federal Reserve Notes (script), non-redeemable in gold or silver [equitable paper involving Commercial Agreements under negotiable instrument law—later codified as Uniform Commercial Code (UCC)]
<b>LIMITATIONS</b>	Many in the U.S. Constitution	None, except what are called Unconscionable Agreements under UCC
<b>FLAG</b>	Stars and stripes without yellow fringe	Stars and stripes with yellow fringe
<b>STATE ABBREVIATIONS</b>	Ala., Alas., Ariz., Cal., Colo., etc. (with or without "zip" codes)	AL, AK, AZ, AR, CA, CO, CT, DE, FL, MT, SC, TX, etc. (with or without "zip" codes)

## CHAPTER XIX.

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

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

§ 211. What constitutes one's country.

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

§ 212. Citizens and natives.

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

§ 213. Residents.

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

§ 214. Naturalization.

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

§ 215. Children of citizens, born abroad.

~~SECRET~~

4-22-71

- Mr. Tolson
- Mr. Boardman
- Mr. Callahan
- Mr. Casper
- Mr. Conrad
- Mr. Dalbey
- Mr. Felt
- Mr. Gale
- Mr. Rosen
- Mr. Sullivan
- Mr. Tavel
- Mr. Walters
- Mr. Soyars
- Tele. Room
- Miss Holmes
- Miss Gandy

MR. TOLSON:

RE: JAPANESE AND UNITED STATES CODES DURING WORLD WAR II

*Japanese Attack on Pearl Harbor*

I have checked with I. Woodrow Newpher, Chief of the Cryptanalysis-Translation Section of the Laboratory, and William A. Branigan, Chief of the Espionage Section of the Domestic Intelligence Division, both of whom were in the Bureau prior to World War II and have knowledge of such matters. They advised that to their knowledge the Japanese were never able to break United States codes prior to Pearl Harbor or during the War. Mr. Newpher also advised that a very reliable book, entitled "The Code Breakers" by David Kahn on pages 582-585 also states that Japan was not successful in breaking United States codes.

On the other hand, according to the above agents, the U. S. Navy did break the Japanese military code prior to the attack on Pearl Harbor and this directly attributed to the United States victory in the battle at Midway Island and in Japanese Admiral Yamamoto's being shot down in the Pacific. The Bureau also broke an open code in one Japanese case which was handled by our New York Office. During the War, Japan changed its codes several times but the military services were able to break some of them and they, as well as the Bureau, were able to read some messages.

It is suggested that any details which could be made available be obtained through the National Security Agency, which assumed the cryptanalytic duties formerly handled by the military services during the War.

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 McCallister - C. W. Wickard  
 3-8-59  
 Declassify on: OADR

with me  
 4/23/71  
 do not refer  
 to NSA  
 TSB

ALL INFORMATION CONTAINED  
 HEREIN IS UNCLASSIFIED  
 DATE 11/19/83 BY SP-4 VLP/SP-6  
 OTS/MSB

ST 104  
 REC-AD 100-97-1-507  
 R. R. BEAVER 18 MAY 25 1971

The logical person to contact at the office of the National Security Agency is Dr. Louis W. Tordella, Deputy Director, at Fort George G. Meade, Maryland - telephone number [redacted]

RRB:crt  
 F-24  
 53 JUN 8 1971

JUN 1 1971

~~TOP SECRET~~ 63

Source: FBI report #100-97-1-507. FBI headquarters. FOIA Section, Washington, DC.

The FBI confirmed that the US Navy did break the Japanese military code prior to the attack. The information was passed on to Clyde Tolson, assistant to J. Edgar Hoover, by R. R. Beaver on April 22, 1971.

or the District of Columbia, and a foreign country.

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

**§ 2.1-1 Definitions.**

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

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

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

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

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

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

IRM

2553.31	32320D	Each	04/1986 File IRM per transmittal	2553.40	32329Y	Each	08/1985 File IRM per transmittal	* 30(52)0	33095L	Each	02/1997 File IRM per transmittal
Application Documentation Standards Handbook			Structured COBOL Handbook			This provides guidelines for using structured COBOL in the programming stage of software development. IS:AD:E Internal Use This product may not be ordered by the general public			BMF Operations		
This handbook provides guidelines for the development of system documentation in both structured and non-structured environments. IS:AD:E Internal Use This product may not be ordered by the general public			2553.41			32330Z	Each	07/1994 File IRM per transmittal	These procedures are limited to those general processes required at Martinsburg Computing Center (MCC) to process data to the BMF (Business Master File), effect settlement with the taxpayer, and to output data for further processing into final outputs at IR service centers. IS:AD:CC:B-BC Internal Use This product may not be ordered by the general public		
2553.32	32321O	Each	03/1987 File IRM per transmittal	2553.41	32330Z	Each	07/1994 File IRM per transmittal	* 30(55)0	33105W	Each	01/1997 File IRM per transmittal
General Programming Guidelines			Testing Guidelines Handbook			This handbook provides procedures/techniques to help developers "build in" quality during the SDLC. IS:AD:E Internal Use This product may not be ordered by the general public			IMF Operations		
This handbook provides guidelines for programmers/project developers concerning software development and documentation. IS:AD:E Internal Use This product may not be ordered by the general public			2600			32340V	Each	03/1993 File IRM per transmittal	These procedures are limited to those general processes required at Martinsburg Computing Center (MCC) to process data to the IMF (Individual Master File), effect settlement with the taxpayer, and to output data for further processing into final outputs at IR service Centers. IS:AD:CC:I:IB Internal Use This product may not be ordered by the general public		
2553.34	32323K	Each	11/1985 File IRM per transmittal	2600	32340V	Each	03/1993 File IRM per transmittal	30(82)0	33120L	Each	07/1991 File IRM per transmittal
(SDLC) Logical Data Base Analysis & Design Guidelines			Systems Testing Branch Procedures			This IRM covers procedures to adhere to when performing a quality systems test of automated informations systems, and guidelines for the development of the quality system test plan. IS Internal Use This product may not be ordered by the general public			Accounting Operating & Production Reports		
This handbook provides requirements for the development of the logical relations within a database and applies to all projects adopting a database approach. IS:AD:E Internal Use This product may not be ordered by the general public			2900			32590D	Each	04/1994 File IRM per transmittal	This is an 8.5 X 11 IRM. R:C Internal Use This product may not be ordered by the general public		
2553.35	32324V	Each	11/1985 File IRM per transmittal	2900	32590D	Each	04/1994 File IRM per transmittal	30(85)0	33134Z	Each	01/1993 File IRM per transmittal
(SDLC) Physical Data Base Design Guidelines			Scheduling & Reporting Computed Usage			This IRM covers the general concepts to be followed in the creation of schedules for all computer processing, and the preparation of run set-ups and review of these prior to and following the completion of the work on the computer system. ISM:S:D Internal Use This product may not be ordered by the general public			Penalty & Reasonable Cause		
This handbook covers considerations to be followed in translating the logical database and design into a physical implementation and applies to all projects implementing a database. IS:AD:E Internal Use This product may not be ordered by the general public			LEM 2(10)71			36400A	Each	08/1995 File IRM per transmittal	Contains information and penalties and reasonable cause. R:R Internal Use This product may not be ordered by the general public		
2553.36	32325G	Each	06/1986 File IRM per transmittal	LEM 2(10)71	36400A	Each	08/1995 File IRM per transmittal	LEM 30(85)0	33135K	Each	01/1993 File IRM per transmittal
Selection of Data Dictionary System DDS Packages Handbook			LEM - IDRS Security Handbook			This Law Enforcement Manual (LEM) contains LEM information for offices that utilize the Integrated Data Retrieval System (IDRS). IS:N:O:IS:M Internal Use This product may not be ordered by the general public			LEM - Penalty & Reasonable Cause		
This handbook provides guidelines to be considered when selecting a data dictionary system. IS:AD:E Internal Use This product may not be ordered by the general public			3.0.33			33075T	Each	01/1998 File IRM per transmittal	Contains law enforcement information on penalties and reasonable cause. R:C Internal Use This product may not be ordered by the general public		
2553.38	32327C	Each	04/1986 File IRM per transmittal	3.0.33	33075T	Each	01/1998 File IRM per transmittal	30(93)0	33150Z	Each	01/1984 File IRM per transmittal
Structured Analysis Handbook			General - Integrated Data Retrieval System			This IRM contains general information on the Integrated Data Retrieval System (IDRS), and provides instruction on how and when to use the system in the various functional areas of the service centers and district offices. IS:D:AS:IA Internal Use This product may not be ordered by the general public			IRAF Operations		
This handbook provides guidelines for using structured analysis techniques in the analysis stage of software development. IS:AD:E Internal Use This product may not be ordered by the general public			* 30(98)0			33160V	Each	07/1996 File IRM per transmittal	Provides a general description of Individual Retirement Account File (IRAF) operations at the National Computer Center (NCC). R:R Internal Use This product may not be ordered by the general public		
2553.39	32328N	Each	04/1986 File IRM per transmittal	* 30(98)0	33160V	Each	07/1996 File IRM per transmittal	EPMF Operations			
Structured Design Handbook			EPMF Operations			These procedures are limited to those general processes required at Martinsburg Computing Center (MCC) to process data to the EPMF (Employees' Plan Master File), and to output data for further processing into final outputs at IR service centers and MCC. IS:AD:T:B Internal Use This product may not be ordered by the general public					
This handbook provides guidelines for using structured design techniques in the design stage of software development. IS:AD:E Internal Use This product may not be ordered by the general public											

Code of Federal Regulations § 1.861-8(a): And the Secretary said:

"The rules contained in this section apply in determining taxable income of the taxpayer from specific sources and activities under other sections of the Code referred to in this section as operative sections. See paragraph (f)(1) of this section for a list and description of operative sections."

26 CFR Sec. 1.861-8(f)(1):

And the Secretary Said:

(i) Overall limitation to the foreign tax credit

(ii) [Reserved]

(iii) DISC and FSC taxable income. (Note: DISC is Direct International Sales Corp, an FSC is a Foreign Sales Corp.)

(iv) Effectively connected taxable income. Nonresident alien individuals and foreign corporations engaged in trade or business within the United States...

(v) Foreign based income

(vi) Other operative sections

(A) "...foreign source items of tax..."

(B) "...foreign mineral income..."

(C) [Reserved]

(D) "...foreign oil and gas extraction income..."

(E) "...citizens entitled to benefits of section 931 and the section 936 tax credit..."

(F) "...residents of Puerto Rico..."

(G) "...income tax liability incurred to the Virgin Islands..."

(H) "...income derived from Guam"

(I) "...China Trade Act corporations..."

(J) "...income of a controlled foreign corporation..."

(K) "...income from the insurance of U.S. risks..."

(L) "...international boycott factor...attributable taxes and income under section 999

(M) "...income attributable to the operation of an agreement vessel under section 607 of the Merchant Marine Act of 1936..."

26 CFR § 1.863-1

Determination of taxable income

(c) Determination of taxable income. The taxpayer's taxable income from sources within or without the United States will be determined under the rules of §§ 1.861-8 through 1.861-14T for determining taxable income from sources within the United States.

Notice 487 Information Guide—Credit for the Elderly or the Disabled. Notice to accompany letter advising taxpayer of examination of return. It tells what records are required to substantiate the credit for the elderly or the disabled. EX:E:D

Notice 500 Information Concerning Your Order for IRS Form W-4. Notice advising taxpayer that they received fewer Forms W-4 than ordered because legislation may be enacted that will affect withholding rates and will require IRS to issue a new Form W-4. HR:F:P

\* Notice 555 Filing Requirements. Notice advising taxpayer of legal requirements for filing Federal income tax returns, and that failure to file a required return, supply information, or pay tax may subject him or her to prosecution under the Internal Revenue Code. EX:D

Notice 557 Who Must File a Federal Income Tax Return. Notice sent to taxpayer explaining who must file an income tax return. CO:O:CPS

Notice 587 Preparing Form W-2 for Your Household Employee. Notice explaining to employer how to complete Form W-2 for household employees. R:R:T

Notice 589 Notice of Currency Transaction Report Requirement. Notice advising financial institutions that they are required to identify all persons conducting transactions of more than \$10,000 in currency. CI:O

Notice 606 Notice About Your Order for Federal Tax Forms. Notice issued to banks and post offices advising that IRS received Form 2333-B request for additional forms not offered under the bank and post office program. Explains that IRS cannot furnish these other items because only those forms listed on Form 2333-B are available for bulk redistribution to the public. HR:F

Notice 609 Privacy Act Notice. Notice is distributed with public use forms, letters, and publications when required to explain the Privacy Act. T:FP:F:M

Notice 632 Privacy Act and Paperwork Reduction Act Notice. Notice advising taxpayers of IRS's legal right to ask for requested information; stating why IRS is collecting it and whether taxpayers are required to furnish it. I:I:A:P

Notice 633 Confirmation Letter for Record of Returns Not Filed. Stuffer notice requesting information when taxpayer receives a verification request of tax returns not filed. I:I:A:P

Notice 634 Confirmation Letter for Balance Due on Account. Stuffer notice requesting information when taxpayer disagrees with a verification request of an unpaid tax balance. I:I:A:P

Notice 674 Should Your Partnership Obtain Prior Approval for Its Tax Year? Notice explaining the provisions regarding tax year adoptions by partnerships. CC:C

Notice 675 Notice of Charge for Copy of Tax Return or Tax Account Information. Notice returning taxpayer's request for copies of tax returns, which did not include payment. R:R:T

Notice 688 Important Notice to Users of IRS Tapes. Notice explaining control and follow-up procedures used by IRS for reels of magnetic tape data that are shipped to other government agencies. R:R:M

Notice 695 Request for Missing Signature To Complete Return. Notice requesting signature on an employment tax return. R:R:R

Notice 706 Information About Estimated Tax Penalty Refund. Notice explaining to taxpayer that estimated tax penalty was incorrectly computed and is being refunded. R:R:I

Notice 720 Important Notice—Bankruptcy. Stuffer notice explaining to taxpayer that if the balance due on income tax on the enclosed notice is for a period prior to the date of bankruptcy petition, it should not be paid at this time, a proof of claim will be filed in the proceeding for this amount. If the notice refers to a period that ended after the date of bankruptcy petition, payment should be sent as requested by the notice. CO:O:SP

Notice 735 Guide to Individual Payers Required To Deduct Backup Withholding. Notice advising individual payers of requirements for reporting backup withholding. CO:O

Notice 746 Information About Your Notice, Penalty and Interest. Notice advising taxpayer of change in interest rate on underpayments and overpayments of taxes, and change in penalty rate for underpayment of estimated tax. Also, an explanation of the penalty codes. R:R:T

Notice 776 Deposit Reminder. Notice transmitting an unacceptable payment because it was not intended for IRS or an endorsement is required. R:R:D

Notice 782 Information on Tax Examination. Notice mailed with all initial interview contact letters. Advises taxpayers of the general examination procedures, repetitive examinations, authorized representation, and appeal rights. EX:E:D

Notice 788 Special Phone Number for TIN Penalty Case. Stuffer advising information return filers of phone number to call for information on proposed TIN penalty assessments. R:R:T

Notice 836 Form W-4 Reminder Notice to Employers. Stuffer reminds employers that Forms W-4 claiming exempt status expire annually on February 15 and instructs them to withhold at "single with zero withholding allowance" until a new Form W-4 is submitted. Also, employers reminded of regulations to send certain Forms W-4 to IRS. CO:O

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# INCOME TAX IN GREAT BRITAIN

INCLUDING A DESCRIPTION OF OTHER  
INLAND REVENUE TAXES

PREPARED FOR THE  
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

BY

ANDRÉ BERNARD

UNDER DIRECTION OF

H. H. B. MEYER

DIRECTOR LEGISLATIVE REFERENCE SERVICE  
LIBRARY OF CONGRESS



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GOVERNMENT PRINTING OFFICE  
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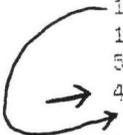
IMFOLT  
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IMF TAX MODULE

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INDICATORS: ARDI :1  
EFT-IND: 0 DDRC :00

TC	DATE	AMOUNT	CYCLE	DLN	VARIABLE DATA
150	12151997	.00	199749	18210-319-00898-7	RECEIVED-DATE: 11191997
140	08231995	.00	199535	74249-235-00000-5	
570	12151997	.00	199749	18210-319-00898-7	
425	12091997	.00	199751	<del>18277-343-20000-7</del>	AIMS-SRC-CD:24 PROJ:021 AIMS-DRG-CD:5000
595	12291997	.00	199751	18249-343-20000-7	
420	12191997	.00	199753	18277-353-00000-7	AIMS-CTL-NUM:24500074
170	02151999	1,151.97	199905	18247-425-00013-9	
160	02151999	6,873.50	199905	18247-425-00013-9	



PAGE 001 OF 002 IMFPG 002

IMFOLT

IMF TAX MODULE

NM CTRL:MUEL PAGE 02  
UP-CYC:50

TC	DATE	AMOUNT	CYCLE	DLN	VARIABLE DATA
300	02151999	27,494.00	199905	18247-425-00013-9	DISPOSAL-CD:10 ASED:02082002
421	02151999	.00	199905	18247-425-00013-9	
336	02151999	17,868.96	199905	18247-425-00013-9	
706	04151999	1,985.00	199919	18247-425-00013-9	XREF:30199812
971	01172000	.00	200001	74277-999-99999-0	ACT-CD: 061
972	06262000	.00	200024	74277-999-99999-0	ACT-CD: 061

PAGE 002 OF 002

IMFPG 001

X

TXMDDP MFT>30 TX-PRD>199312 NM-CTRL>  
 18247-425-00013-P<DLN BOD-CD>WI  
 MF-XTRDT-CYC>200038 SC-REASON-CD>6T  
 SC-STB>24 MOD-BAL> 51,403.42 CYC>200010  
 MF-STB>24 MOD-BAL> 51,403.42 CYC>200010 TODAYS-DT>12/11/2000  
 LAST-NOTICE>DAS ARDI-CD>1 PRIMARY-LOC>7401  
 FIDC-CD>74  
 ASED>02082002 FRZ>T - : COLLECTION-ASGMT>74017000  
 CSED>02152009 INTL> : MOD-YLD-SCOR>34315  
 RSED>04151997 !

CS-CTRL-INFO>NO CASE CONTROLS

-----POSTED RETURN INFORMATION-----

RET-RCVD-DT>11191997 MO-DELO>5  
 FB>3 NUM-EXEMPT>01  
 - AGI> 76,078.00  
 TXI> 70,628.00 PRIM-SE-INCM>74,555  
 SET> 9,305  
 PMEI> 74,555

-----RETURN TRANSACTION-----

T/C	POSTED	TRANS-AMOUNT	CYC	T	DLN
Tax 150	12151997	0.00	199749	D	18210-319-00898-7 SFR

Employee #7420218033 Page 001 of 002 PAGE 002

TXMDDP MFT>30 TX-PRD>199312 NM-CTRL>  
 -----POSTED TRANSACTIONS SECTION-----  

T/C	POSTED	TRANS-AMOUNT	CYC	T	DLN
140	08231995	0.00	199535		74249-235-00000-5
570	12151997	0.00	199749		18210-319-00898-7
→ 424R	12091997	0.00	199751		18277-343-20000-7 SOURCE-CD>24 SPCL-PROJ>021 ORG-CD>5000
595	12291997	0.00	199751		18249-343-20000-7
420	12191997	0.00	199753		18277-353-00000-7
					AIMS-NUM>2405000074
170	02151999	1,151.97	199905		18247-425-00013-9
160	02151999	6,873.50	199905		18247-425-00013-9
Tax - 300	02151999	27,494.00	199905		18247-425-00013-9
					DISP-CD>10 ASED>02082002
421	02151999	0.00	199905	X	18247-425-00013-9
336	02151999	17,868.96	199905		18247-425-00013-9
706	04151999	1,985.00	199919		18247-425-00013-9
					XREF-MFT>30 XREF-TX-PRD>199812
971	01172000	0.00	200001		74277-999-99999-0 971-CD>061
972	06262000	0.00	200024		74277-999-99999-0 971-CD>061

Employee #7420218033 Page 002 of 002 PAGE 001

# THE POWER TO DESTROY

**HOW THE IRS BECAME  
AMERICA'S MOST POWERFUL AGENCY,  
HOW CONGRESS IS TAKING CONTROL,  
and  
WHAT YOU CAN DO TO PROTECT YOURSELF  
UNDER THE NEW LAW**



Sen. William V. Roth, Jr.  
and William H. Nixon

## Praise for the Senate Finance Committee's investigations into the IRS:

"Thanks to the Senate Finance Committee, Americans . . . are being shown the darkest side of their federal tax collection system. The stories of maliciousness and malfeasance by Internal Revenue Service agents in pursuit of unpaid taxes should disturb all citizens. The IRS . . . touches more lives more regularly than any other agency of the government. And its touch . . . can devastate individuals and businesses."—*The Christian Science Monitor*

"[The witnesses] told of an IRS that is a virtual police state within a democracy, a Borgia-like fiefdom of tax terror at the heart of the U.S. economy. The IRS . . . is almost never held accountable for its many errors and sins. It is an agency that audits people on a supervisor's whim, frames taxpayers with false claims, seizes property and places liens illegally, and retaliates against anyone it pleases."—*Newsweek*

### **Shocking Revelations about the IRS in *The Power to Destroy*:**

- How the IRS—with a near-absolute authority granted by Congress—plays judge, jury, and executioner, depriving countless taxpayers of basic rights.
- How the IRS assesses outrageous and arbitrary penalties that convert minor debts and innocent accounting mistakes into insurmountable financial liabilities.
- How IRS managers in pursuit of goals and quotas drive agency employees to abuse their authority, to seize personal property and shut down small businesses, forcing honest Americans into bankruptcy.
- How IRS employees, on their own authority and motivated by self-interest, ruin the lives of middle-class taxpayers while absolving large debtors of millions of dollars of outstanding tax liabilities.
- How confidential internal surveys and an agency-wide study of the ethics of IRS agents document a culture of corruption, deception, and fear.
- How the IRS escapes oversight through institutional isolation and personal retaliation against those who have criticized or challenged the agency—including whistleblowers within its own ranks.



0-87113-748-8

LLOYD BEHTSEN IRAS CHAIRMAN

SPARK M. MATSUMAGA HAWAII	BOB FACEWOOD UTAH
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BILL BRADLEY NEW JERSEY	JOHN CHAFFE RHODE ISLAND
GEOFFREY J. MITCHELL MAINE	JOHN HENRY PENNSYLVANIA
DAVID HYDE ARKANSAS	MALCOLM WALLACE WYOMING
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JOHN D. ROCKEFELLER IV WEST VIRGINIA	WILLIAM L. ARMSTRONG, JR. COLORADO
TOM DASCHLE SOUTH DAKOTA	

# United States Senate

COMMITTEE ON FINANCE  
WASHINGTON, DC 20510-6200

WILLIAM J. WHEAMS STAFF DIRECTOR AND CHIEF COUNSEL  
EDMUND J. AMALBRI MINORITY CHIEF OF STAFF

May 24, 1988

Thank you for contacting me again.

\* There is no law requiring every citizen of the United States to obtain a Social Security number. There are a limited number of circumstances in which an individual would be able to meet his or her legal obligations without obtaining one.

Again, , I appreciate knowing of your continued interest in this matter.

Sincerely,

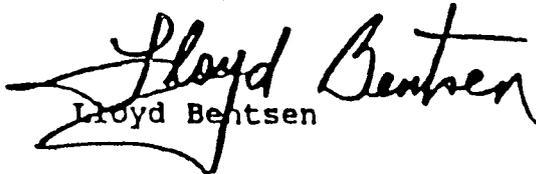
  
Lloyd Behtsen

Exhibit 1

Millions of Americans are asking:

*"Will Social Security be there for me?"*

The answer may shock you!

If you are 40 years old now, you could have \$300,000 for your retirement at age 65, and if you are 25, that figure could be well over a million dollars!

Wouldn't you like to be paid \$5,000 a month when you retire?

What would you say to a plan that could make all this possible *and*

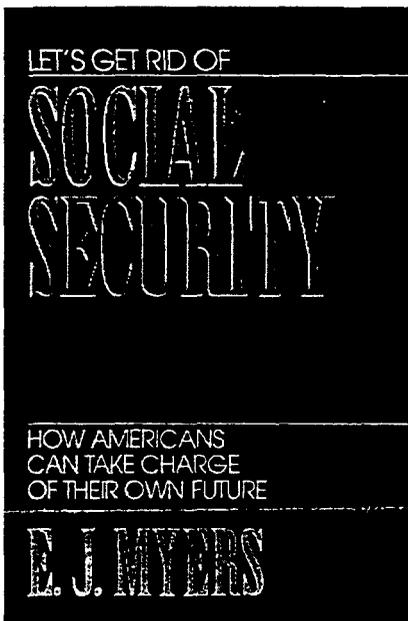
- keep retirement benefits for current recipients and those about to retire at present levels
- save billions of dollars for businesses
- cancel the \$400 billion debt the Treasury Department owes the Social Security Trust Funds

Sounds great, doesn't it?

*Let's Get Rid of Social Security* by E.J. Myers explains how we can replace our current system with one based on common sense. The new system would turn payroll withholding into a Social Security IRA. It would do away with government interference and put control in the hands of America's workers.

Millions of retired Americans depend on Social Security as their sole means of support. Tens of millions of new retirees will soon flood the system, pushing it to the breaking point. Every one of us must face the very real concern that the Social Security system, as it now exists, may be bankrupt by the time we retire. We all need to say to ourselves, "It's my future. I owe it to myself to explore my options."

**E.J. Myers** (Houston, TX) is a businessman and president of Environmental Guardian, a company specializing in bioremediation. He has appeared before the U.S. House of Representatives Social Security Subcommittee to formally present his ideas to Congress.



**LET'S GET RID OF SOCIAL SECURITY**

*How Americans Can Take Charge of Their Own Future*

**E. J. MYERS**

270 pages (Glossary  
Bibliography, Index)  
Hardcover \$25.95  
ISBN 1-57392-015-0

Publication Date: April 30, 1996

TO REQUEST A REVIEW COPY

OR TO SCHEDULE AN INTERVIEW WITH E.J. MYERS,

PHONE CHRISTINE KRAMER at (800) 853-7545 OR FAX (716) 691-0137

**Prometheus Books**

59 John Glenn Drive • Amherst, New York 14228 • (800) 421-0351 • Fax (716) 691-0137

Let's follow the paper trail of these trust funds.

↘ The simple fact of the matter is that there really isn't and never have been any Social Security Trust Funds, except possibly on paper. All the money the government takes in, in any form, be it income taxes, FICA taxes, fees, and the like goes directly to the U.S. Treasury where it is used to pay the general bills of the government. This includes all monthly Social Security payments to recipients, as well as all welfare payments. The bureaucratic talk about Social Security being "off budget" (set aside from the government's general revenue and earmarked for Social Security payouts) or "on budget" (actually included in annual government budgets as a form of revenue and expenditure) has no substance.

This fairy tale surplus started in 1983 as a result of Congress fixing a Social Security system that had gone broke. After a great deal of posturing lawmakers raised the FICA rates to the point where they would technically have a surplus in the Social Security Trust Funds for about twenty-six years. It was projected that for this time period more money would be coming into the funds than would be paid out. During this period they knew they could do just what they pleased with the surpluses, because the monies weren't separated from general revenue and because the day of reckoning seemed so many years away. They could worry about paying the money back later. Well, the day of reckoning has almost arrived.

Thomas Jefferson was so right when he said, "public debt is the greatest of the dangers to be feared from government." If the government had played it straight with the monies paid into Social Security and really made them trust funds, it could have taken the surplus funds and invested them in income-producing vehicles. The interest alone would now be in the billions. Some legislators feared that if such a plan were put in place, then the government would be in a position to own part of the private sector and this would pose a serious conflict of interest. But that concern was just smoke screen. These fears could have been allayed by putting the funds in the hands of independent money managers.



U.S. Department of Justice

Tax Division

Civil Trial Section, Eastern Region  
P.O. Box 227  
Ben Franklin Station  
Washington, D.C. 20044

Facsimile No. (202) 514-6866

PMJ:JBF:RRMcCoy  
FOIPA/TAX #

December 8, 2000

Certified Mail No. 7000 0600 00  
RETURN RECEIPT REQUESTED

Mr.  
P.O. .

Dear Mr.

This responds to your multiple Privacy Act requests, all of which were attached to a cover letter dated December 2, 2000. The Tax Division's Freedom of Information and Privacy Act Unit received your cover letter and the attached requests on December 8, 2000.

We understand from each of your requests that you are seeking information pertaining to yourself that are contained in Internal Revenue Service files.

↙ We note that each of your requests were addressed to a Department of the Treasury component, the Internal Revenue Service. Please be aware that the Tax Division is not a component of either the Department of the Treasury or the Internal Revenue Service; it is a component of the U.S. Department of Justice.

Given our understanding of your requests and how they were addressed, we recommend that you resend them to the Internal Revenue Service. You may redirect these request to:

Mr. Thomas Marusin  
Internal Revenue Service  
Director, Freedom of Information  
Officer of Disclosure  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Mr. Marusin's telephone number is (202) 622-6250.

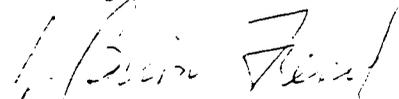
FOIPA/TAX #  
Certified Mail No. 7000 0600

In the event you wish to appeal this determination, you may write to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, 10th Street and Constitution Avenue, N.W., Suite 570, Washington, D.C. 20530-0001 within sixty (60) days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Thereafter, judicial review of the final determination will be available in the District Court of the United States located in the district in which you reside, where you have your principal place of business, in which the agency records are located, or in the District of Columbia.

Sincerely yours,

Paula M. Junghans  
Acting Assistant Attorney General

By:

  
J. BRIAN FERREL  
Senior Division Counsel  
for FOIA and PA Matters



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

Ms. :

Contact Person: Ms. Leslie  
Contact Number: 202-622-3196  
Refer Reply to: 98-4623  
Date: July 29, 1998

Dear Ms. :

This is in response to your Freedom of Information Act request for definition of MFR-01 code which appeared on your Individual Master File.

The definition of the MFR-01 code which appears on your Individual Master File is "Mail Filing Requirement - Form 1040 not needed."

It has been my pleasure to assist you with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Haywood".

Leslie Haywood  
Disclosure Program Assistant  
Freedom of Information

Enclosure

IMF Filing Requirement Codes

Form 1040—U.S. Individual Income Tax Return

00	No return filed
01	Return not required to be mailed or filed
02	Form 1040A or 1040EZ filer (Package 50)
03	Form 1040 with Schedule A and B only Principle non business filer (Package 10).
04	Form 1040, Schedules A, B, D and E Full non-business filer (Package 20).
05	Form 1040, Schedules A, B, D, E, C and F. Form 1040 business filer (Package 30).
06	Form 1040SS filer (Virgin Islands (DO 66), Guam, and American Samoa—DO 98).
07	Form 1040PR filer (Puerto Rico—DO 66)
08	Account is inactive. Return not required to be mailed or filed
09	Form 1040NR filer.
10	Form Schedule F Business with Farm Package. (Package 40)
11	IMF Child Care Credit present. (Package 00)
12	Schedule R/RP present. (Package 80)
13	Form 1040EZ

EPMF Filing Requirement Codes

Form	FR	DC
5500	X	37
5500-C	T	38
5500-EZ	Z	31
5500-R	T	30
5500C/R	T	38/30

12 Employment Tax

464	Form 940
465	Form 941
466	Form 942
467	Form 943
468	Form CT-1
469	Form CT-2
470	Form 1042
471	Form 1040PR
472	Form 1040SS

13 Excise-Form 720

000	Unused
001-010	Reserved
011	IRC 444 FY Election
012-013	Reserved
014	Aviation Fuel-Gasoline Non-Commercial
015	Reserved
016	Petroleum-Imported
017	Imported Chemical Substance
018	Oil Spill-Domestic Petroleum
019	Ozone Depleting Chemicals
020	Floor Stock Ozone Depleting Chemicals
021	Oil Spill Imported Petroleum
022	Telephone: Toll, Local, Teletype
023-025	Reserved
026	Transportation of persons by Air
027	Use of International Air Travel Facilities
028	Transportation of Property by Air
029	Transportation of Persons by Water
030	Policies Issued by Foreign Insurers
031	Obligations Not in Registered Form
032	Pistols and Revolvers
033	Truck/Bus Chassis, Bodies, Tractors
034-035	Reserved
036	Coal-Underground Mined
037	Coal-Underground % of Ton Price
038	Coal-Surface Mined
039	Coal-Surface Mined % of Ton Price
040	Gas Guzzler (Fuel Economy)
041	Fishing Equipment
042	Trolling Motors, Sonar Devices
043	Reserved
044	Bows and Arrows and Crossbows
045	Reserved

11 Gift (Total Gifts)

423	Under \$5,000
425	\$5,000 Under \$10,000
427	\$10,000 Under \$20,000
429	\$20,000 Under \$50,000
431	\$50,000 Under \$100,000
433	\$100,000 Under \$200,000
435	\$200,000 Under \$500,000
437	\$500,000 Under \$1,000,000
439	\$1,000,000 and Over

12 Employment

464	Form 940
465	Form 941
466	Form 942
467	Form 943
468	Form CT-1
469	Form CT-2
470	Form 1042
471	Form 1040PR
472	Form 1040SS

13 Excise-Form 720

507	Pricing Issues
508	Economist Studies
514	Prods. & Comds. Aviation Fuel/Gasoline
515	Prods. and Comds., Add'l Tax On Fuels
516	Prods. and Comds., Petroleum (I)
518	Oil Spill—Domestic Petroleum
519	Ozone depleting Chemicals
521	Oil Spill—Import Petroleum
522	F & S, Telephone Services
526	F & S, Transportation by Air
527	F & S, Use of International Air Travel Facilities
528	F & S, Transportation Property by Air
529	Transportation by water
530	F & S, Policies Issued by Foreign Insurers
531	F & S, Obligations to Register
532	Mfgs. Pistols and Revolvers
533	Mfgs. Trucks, Bus Chassis and Body
534	Mfgs. Other Auto Chassis
536	Underground Coal Mine 50%
537	Underground Coal Mine 25%
538	Mfgs. Surface Coal Mine 50%
539	Mfgs. Surface Coal Mine 25%
540	Gas Guzzler
541	Mfgs. Fishing Equipment
542	Mfgs. Trolling Motors
544	Mfgs. Bows & Arrows
546	Mfgs. Firearms
548	Mfgs. Truck Parts & Accessories
549	Mfgs. Cartridges and Shells
550	Prods and Comds., Windfall Profit Tax—Quarterly
551	Mfgs.—Alcohol acid but not used as fuel

ACTIVITY CODE



## Business briefs

### IRS to look into offshore accounts

MIAMI — In a sweeping tax-evasion investigation, the IRS was granted access Monday to thousands of MasterCard and American Express credit card accounts held by U.S. taxpayers in three offshore banking havens.

U.S. District Judge Adalberto Jordan agreed with the IRS that cardholders may have violated U.S. tax laws and that their identities are not readily available from other sources.

The court order allows the IRS to issue summonses for charge, debit and credit cards issued or paid by banks in the Bahamas, the Cayman Islands and the country of Antigua and Barbuda in 1998 and 1999.

Investigators want to look at such things as car, boat and

airline ticket purchases and hotel and car rentals.

The investigation is one of the largest targeting offshore accounts in the history of the Internal Revenue Service.

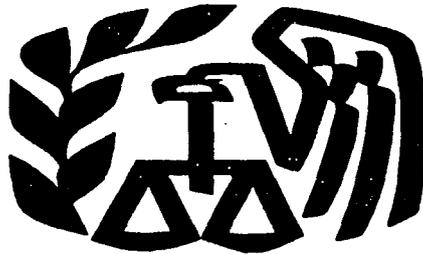
MasterCard International spokeswoman

Sharon Gamsin said in a statement that the company has "a long history of co-operating with governmental agencies." But she also said MasterCard keeps transaction records only by account number, with

the bank keeping personal information.

Judy Tenzer, a spokeswoman for American Express Travel Related Services Co., said, "We are now speaking to the IRS to get a better idea of what they're looking at."

Neither spokeswoman would answer questions.



### Houston & Texas

#### National-Oilwell to acquire company

National-Oilwell has agreed to pay cash and assume the debt of Maritime Hydraulics



NATIONAL OILWELL

Ltd. of Canada to buy its stock from Aker Maritime ASA of Oslo, Norway.

The deal is for \$25 million Canadian, which is approxi-

pable of holding 10 billion cubic feet of gas, plus a cash payment for an undisclosed sum.

Tom Brown, an independent energy company, will get natural gas gathering and processing facilities in the Big Horn and Wind River basins in Wyoming, the Piceance basin in Colorado and the Uinta basin in Utah. The transaction is expected to close on or before Nov. 30.

## Hostile stock Tandycrafts

FORT WORTH (AP) — Tandycrafts, the home-decor company once related to RadioShack, has lost more than \$50 million in the past five years, and company management is battling hostile shareholders.

The cause of the shareholders' anger is plain: They have watched Tandycrafts' stock price nose dive from \$26 per share in 1993 to \$1.69 on Friday.

A dissident group is waging a proxy contest, urging fellow shareholders to throw out the board of directors and install new directors who would focus on boosting the sagging stock price.

Some shareholders are attacking Chairman and Chief Executive Michael Walsh over his strategies, performance and salary.

"There's a lot of blood and tears in it at this point," Walsh told the Fort Worth Star-Telegram.

Walsh, 59, an 18-year veteran at the Fort Worth-based maker and retailer of furniture and home decor, dismissed his critics.

"They're not coming in here every day, trying to resolve the problems we're trying to handle," he said.

Walsh and his management team are locked in battle with a couple of hardball money managers: Warren Lichtenstein and Mark Schwarz, who like to make hostile takeover plays for undervalued companies. They have generated strong returns for their wealthy investors, averaging gains of close to 30 percent a year since 1993.

Lichtenstein, 35, and Schwarz, 39, paid \$5.8 million for 14.8 per-

# Summons Referral

(If more space is necessary, prepare attachments in quadruplicate.)

<p>1. Name and address of person summoned</p>	<p>8. Taxpayer's name and last known address if different from item 1.</p>
<p>2. Summons served at above address?  <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)</p>	<p>9. Taxpayer's TIN:</p>
<p>3. Manner of service  <input type="checkbox"/> personal service on person summoned  <input type="checkbox"/> personal service on person authorized to accept service of process—name and title.   <input type="checkbox"/> delivered to other person over 16 years old at last known address—name and relationship to person summoned:   <input type="checkbox"/> left at last known address—not delivered to anyone: (specify method, i.e., slipped under door, attached to door, etc.)</p>	<p>10. Type of investigation  <input type="checkbox"/> delinquent account <span style="margin-left: 150px;"><input type="checkbox"/> examination</span>  <input type="checkbox"/> delinquent return <span style="margin-left: 100px;"><input type="checkbox"/> other (specify)</span>  <input type="checkbox"/> criminal</p>
<p>4. If third party summons, was notice given to all persons to whom records pertain?  <input type="checkbox"/> Yes (Indicate in Section B whether petition to quash summons was filed.) If notice(s) other than taxpayer, list names and addresses in Section C.)  <input type="checkbox"/> No (Explain in Section C.)  <input type="checkbox"/> Not a third party summons</p>	<p>11. Type of tax and periods involved (Explain in A. If periods or description of records are different from periods stated in summons caption.)</p>
<p>5. Date of service <span style="margin-left: 50px;">Appearance date</span></p>	<p>12. All applicable tax periods included on summons?  <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain in Section C.)</p>
<p>6. Person summoned  <input type="checkbox"/> did not appear <span style="margin-left: 100px;"><input type="checkbox"/> appeared but did not provide all summoned information.</span></p>	<p>13. Statute of limitations problems?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>
<p>7. Does IRS possess any of summoned information?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>	<p>14. Tax liability involved  assessed \$ _____  estimated \$ _____ (Explain in Section C.)</p>
<p>A. Describe exact purpose of summons and relevance of summoned information to periods under investigation:</p>	<p>15. Taxpayer category (corporation, salaried individual, etc.; include spouse if applicable.)</p>
<p>B. Reason for not complying, if known:</p>	<p>16. Other civil, criminal, or administrative actions (Summons enforcement, suit, seizure, etc.) pending against taxpayer or person summoned?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>
<p>C. Other information: (include synopsis of attempts to obtain information before summons was issued, if summoned person is the taxpayer.)</p>	<p>17. Has there been a referral of this or a related case to the Department of Justice?  <input type="checkbox"/> Yes (Explain in Section C.) <input type="checkbox"/> No</p>

Referring Officer's Name, Telephone Number, Office Location, and Office Symbols	Referring Officer's Signature	Date Referred
Issuing Officer's Name		Date Issued
Approved by (Signature and Title)—If Required	Date Approved	Reviewed by (Signature and Title)
		Date Reviewed

Form 4443 (Rev. 2-93)

Part 1 District Counsel

Department of the Treasury  
Internal Revenue Service

UNITED STATES  
 INDIVIDUAL INCOME AND VICTORY TAX RETURN

OPTIONAL FORM 1040 MAY BE FILED INSTEAD OF THIS FORM IF GROSS INCOME IS REPORTED ON THE CASH BASIS FOR THE CALENDAR YEAR, IS NOT MORE THAN \$3,000, AND CONSISTS WHOLLY OF SALARY, WAGES, OTHER COMPENSATION FOR PERSONAL SERVICES, DIVIDENDS, INTEREST OR ANNUITIES

FOR CALENDAR YEAR 1943

or fiscal year beginning Jan. 1, 1943, and ending Jan. 1, 1944

PRINT NAME AND ADDRESS PLAINLY. (See Instruction C)

Louis B. Broussard (Do not print name of agent or preparer)

(Street and number, or rural route)

Loreauville (Town) Louisiana (State)

Occupation Farmer Social Security number, if any 436-32-0805

(Do not use these spaces)

File Code

Serial No.

District

(Cashier's Stamp)

COMPUTATION OF NET INCOME

INCOME		Column 1	Column 2
		Income Tax Net Income	Victory Tax Net Income
1. Salary, Wages, and Compensation for Personal Services	Employer's Name <u>Louis B. Broussard</u> City and State <u>Port Arthur, Texas</u>	\$ <u>215.25</u>	\$ <u>215.25</u>
	<u>Compensation A.S.A. Committee, New Iberia, Acctorville, La.</u>	\$ <u>11.04</u>	\$ <u>11.04</u>
	Total	\$	\$
	Less: Deductible expenses. (Attach itemized statement)	\$	\$
	Compensation after deductible expenses	\$	\$
2. Dividends			
3. Interest on corporation bonds, bank deposits, notes, etc.			
4. Interest on Government obligations, etc.:	(a) From line A (8), Schedule A		xxxxxxx xx
	(b) From line B (5) and (3), Schedule A		
5. Annuities			
6. (a) Net gain (or loss) from sale or exchange of capital assets. (From Schedule B)			xxxxxxx xx
	(b) Net gain (or loss) from sale or exchange of property other than capital assets. (From Schedule B)		
7. Rents and royalties. (From Schedule C (1))			
8. Net profit (or loss) from business or profession. (From Schedule C (2))	(State total receipts, from line 1, Schedule C (2) \$ <u>3079.07</u> )	\$ <u>513.03</u>	\$ <u>513.03</u>
9. (Income or loss) from partnerships; fiduciary income; and other income. (From Schedule C (3))			
10. Total income in items 1 to 9		\$ <u>739.32</u>	\$ <u>739.32</u>
DEDUCTIONS			
11. Contributions. (Explain in Schedule D)		\$	xxxxxxx xx
12. Interest. (Explain in Schedule E) (See Instructions 12 and 16 for Victory Tax deduction)			xxxxxxx xx
13. Taxes. (Explain in Schedule F) (See Instructions 15 and 16 for Victory Tax deduction)			xxxxxxx xx
14. Losses from fire, storm, shipwreck, or other casualty, or theft. (Explain in Schedule C)			xxxxxxx xx
15. Medical, dental, etc., expenses. (Explain in Schedule H)			xxxxxxx xx
16. Other deductions authorized by law. (Explain in Schedule G)		\$	
17. Total deductions in items 11 to 16		\$	\$
18. Income Tax net income (item 10, col. 1, less item 17, col. 1)		\$ <u>739.32</u>	xxxxxxx xx
19. Victory Tax net income (item 10, col. 2, less item 17, col. 2)		xxxxxxx xx	\$ <u>739.32</u>
INCOME AND VICTORY TAX			
20. Unpaid balance of 1943 Income and Victory Tax (from line 22, page 4)			\$ <u>none</u>
21. You may postpone, until not later than March 15, 1945, payment of the amount you owe up to one-half of item 19 (c), page 4. Enter the amount postponed. (For persons whose surtax net income for 1942 or 1943 exceeded \$20,000, see Schedule L-2)			
22. Amount paid with this return (item 20 less item 21)			\$ <u>none</u>
23. Refund or Credit	If the total of your payments (line 21 (d) on page 4) is larger than your tax (line 20 on page 4), enter the difference. Indicate by a check mark (✓) what you want done with this overpayment: Refund it to me <input type="checkbox"/> ; Apply it on my 1944 estimated tax <input type="checkbox"/> .		\$ <u>6.70</u>

I declare under the penalties of perjury, that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return.

(Signature of person (other than taxpayer or agent) preparing return)

Louis Broussard (Signature of taxpayer) Feb. 12, 1944 (Date)

1. Income Tax net income (item 18, page 1).....		\$ 759.32
2. Less: Personal exemption. (From Schedule I-(1)).....	\$ 1200.00	
3. Credit for dependents. (From Schedule I-(2)).....	1750.00	
4. Balance (surtax net income).....		\$ 2950.00
5. Less: Certain interest on Government obligations (item 4 (a), page 1).....		none
6. Earned income credit. (From Schedule J-(1) or J-(2)).....		none
7. Balance subject to normal tax.....		\$ none
8. Normal tax (6% of line 7).....		\$ none
9. Surtax on amount in line 4. (See Surtax Table, page 3 of Instructions).....		none
10. Total Income Tax (line 8 plus line 9). (If Schedule D is used and alternative tax computation made, enter line 16, Schedule B).....		\$
11. Less: Income Tax paid to a foreign country or U. S. possession. (Attach Form 1116).....		
12. BALANCE OF INCOME TAX.....		\$ none
13. NET VICTORY TAX (line 6 of Victory Tax Schedule, below).....		none
14. Total of lines 12 and 13.....		\$ none
15. Income Tax paid at source on tax-free covenant bond interest. (See Footnote 1).....		none
16. Line 14 less line 15.....		\$
17. Income Tax for 1942. (See Statement, Form 1125, from Collector) (First, see page 4 of Instructions).....		\$ none
18. Enter line 16 or 17 whichever is LARGER. (Members of the armed forces see page 4 of Instructions).....		\$ none
19. FORGIVENESS FEATURE (Don't fill in (a), (b), and (c) below, if either line 16 or 17 is \$50 or less):		none
(a) Enter line 16 or 17, whichever is SMALLER.....	\$	
(b) Enter \$50 or three-fourths of (a), immediately above, whichever is LARGER. This is the FORGIVEN part of the tax.....	\$	
(c) Enter the UNFORGIVEN part of the tax which is the BALANCE (subtract (b) from (a)). (See Footnote 2).....		
20. TOTAL INCOME AND VICTORY TAX. (Total of lines 18 and 19 (c)).....		\$ none
21. Less: (a) Income and Victory Tax withheld by employer.....	\$ 6.70	
(b) Income Tax paid on 1942 income.....	none	
(c) Tax paid on 1943 income on account of Declaration of Estimated Tax.....	none	
(d) Total payments.....	none	
22. UNPAID BALANCE OF INCOME AND VICTORY TAX. (If line 20 is larger than line 21 (d), enter the difference here and also as item 20, page 1; if not, see item 23, page 1).....		\$ 6.70

FOOTNOTE 1.—If you claim a credit in line 15, disregard lines 19 (a) and (b), complete Schedule L-1 on page 4 of Instructions, and enter result in line 19 (c). Attach completed schedule.

FOOTNOTE 2.—If your surtax net income for 1942 or 1943 exceeded \$20,000, requiring you to complete Schedule L-2, enter here the amount shown on line 10 or 27 of such schedule, \$..... and increase 19 (c) by such amount.

Schedule K.—VICTORY TAX. (See Tax Computation Instructions)

1. Victory Tax net income (item 19, page 1).....		\$ 759.32
2. Less: Specific exemption (\$624 if return reports income of only one person; otherwise, see Instructions, page 3).....		1248.00
3. Income subject to Victory Tax (line 1 less line 2).....		\$ none
4. Victory Tax before credit (5% of line 3).....		none
5. Victory Tax credit:		
(a) Single person, or married person not living with husband or wife: 25% (plus 2% for each dependent) of line 4, but not more than \$500 (plus \$100 for each dependent).....	\$	
(b) Married person living with husband or wife if separate returns are filed: 40% (plus 2% for each dependent) of line 4, but not more than \$500 (plus \$100 for each dependent).....	\$	
(c) Married person living with husband or wife if only one return or a joint return is filed, or head of a family: 40% (plus 2% for each dependent) of line 4, but not more than \$1,000 (plus \$100 for each dependent). (See Schedule I-(2), for exclusion of one dependent by head of a family).....	\$	
6. Net Victory Tax (line 4 less line 5).....		\$ none

Schedule L.—To be used only by individuals whose surtax net income for 1942 or 1943 exceeded \$20,000  
Schedule to determine whether Section 6 (c) of the Current Tax Payment Act of 1943 is applicable

1. Surtax net income for 1942 (item 23, Form 1040 (1942)).....	\$
2. Surtax net income for 1943 (line 4, above).....	\$
3. Surtax net income for base year, \$..... plus \$20,000: \$..... (Check year used: 1937 ____; 1938 ____; 1939 ____; 1940 ____)	

If either line 1 or 2 is greater than line 3, separate Schedule L-2 should be secured from the collector and filed with and as a part of this return.

Note.—If a joint return is filed for either 1942 or 1943 and separate returns for the other of such years, enter the aggregate of the separate surtax net incomes for the separate return year. The surtax net income to be entered in line 3 shall be determined in the same manner as the surtax net income entered in line 1 or 2, whichever is the lesser.

File this return with Collector of Internal Revenue on or before March 15, 1945. Any balance of tax due (item 8, below) must be paid in full with return. See separate instructions for filling out return.

FORM 1040  
Treasury Department  
Internal Revenue Service

U. S. INDIVIDUAL INCOME TAX RETURN  
FOR CALENDAR YEAR 1944

1944

or fiscal year beginning Jan. 1, 1944, and ending Jan. 1, 1945

EMPLOYEES.—Instead of this form, you may use your Withholding Receipt, Form W-2 (Rev.), as your return, if your total income was less than \$5,000, consisting wholly of wages shown on Withholding Receipts or of such wages and not more than \$100 of other wages, dividends, and interest.

NAME Louis J. Bragnot  
(PLEASE PRINT. If this return is for a husband and wife, use both first names)

ADDRESS Loroueville, La.  
(PLEASE PRINT. Street and number or rural route)  
(City or town, postal zone number) (State)

Social Security No. (if any) 66800

Do not write in these spaces

File Code \_\_\_\_\_  
Serial No. \_\_\_\_\_  
District \_\_\_\_\_  
(Cashier's Stamp)

Your Exemptions

1. List your own name. If married and your wife (or husband) had no income, or if this is a joint return of husband and wife, list name of your wife (or husband). List names of other close relatives with 1944 incomes of less than \$500 who received more than one-half of their support from you. If this is a joint return of husband and wife, list dependent relatives of both.

NAME (Please print)	Relationship	NAME (Please print)	Relationship
Your name <u>Louis J. Bragnot</u>	<u>xxxxxxx</u>	<u>Patricia Ann</u>	<u>agt.</u>
<u>Elda B. Bragnot</u>	<u>wife</u>	<u>Eugene Patrick</u>	<u>agt.</u>
<u>Eula May</u>	<u>agt.</u>	<u>Larry P.</u>	<u>son</u>
<u>Louis, Jr.</u>	<u>son</u>		

Your Income

2. Enter your total wages, salaries, bonuses, commissions, and other compensation received in 1944, BEFORE PAY-ROLL DEDUCTIONS for taxes, dues, insurance, bonds, etc. Members of armed forces and persons claiming traveling or reimbursed expenses, see Instruction 2.

PRINT EMPLOYER'S NAME	WHERE EMPLOYED (CITY AND STATE)	AMOUNT
<u>Self (former)</u>		\$

Enter total here → \$ 1088.59

How to Figure Your Tax

3. Enter here the total amount of your dividends and interest (including interest from Government obligations unless wholly exempt from taxation) \_\_\_\_\_

4. If you received any other income, give details on page 3 and enter the total here \_\_\_\_\_

5. Add amounts in items 2, 3, and 4, and enter the total here \$ 1088.59  
If item 5 includes income of both husband and wife, show husband's income here, \$ 544.29; wife's income here, \$ 544.30

Tax Due or Refund

IF YOUR INCOME WAS LESS THAN \$5,000.—You may find your tax in the tax table on page 2. This table, which is provided by law, is based on the same tax rates as are used in the Tax Computation on page 4. The table automatically allows about 10 percent of your total income for charitable contributions, interest, taxes, casualty losses, medical expenses, and miscellaneous expenses. If your expenditures and losses of these classes amount to more than 10 percent, it will usually be to your advantage to itemize them and compute your tax on page 4.

IF YOUR INCOME WAS \$5,000 OR MORE.—Disregard the tax table and compute your tax on page 4. You may either take a standard deduction of \$500 or itemize your deductions, whichever is to your advantage.

HUSBAND AND WIFE.—If husband and wife file separate returns, and one itemizes deductions, the other must also itemize deductions.

6. Enter your tax from table on page 2, or from line 15, page 4 \$ none

7. How much have you paid on your 1944 income tax?

(A) By withholding from your wages (Attach Withholding Receipts, Form W-2) \$ \_\_\_\_\_

(B) By payments on 1944 Declaration of Estimated Tax \$ none

Enter total here → \$ \_\_\_\_\_

8. If your tax (item 6) is larger than payments (item 7), enter BALANCE OF TAX DUE here \$ none

9. If your payments (item 7) are larger than your tax (item 6), enter the OVERPAYMENT here \$ \_\_\_\_\_

Check (✓) whether you want this overpayment: Refunded to you  or Credited on your 1945 estimated tax

If you filed a return for a prior year, what was the latest year? 1943  
To which Collector's office was it sent? New Orleans, La.  
To which Collector's office did you pay amount claimed in item 7 (B), above? \_\_\_\_\_

Is your wife (or husband) making a separate return for 1944? \_\_\_\_\_  
If "Yes," write below: \_\_\_\_\_  
Name of wife (or husband) \_\_\_\_\_  
Collector's office to which sent \_\_\_\_\_

I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return.

(Signature of person (other than taxpayer or agent) preparing return) \_\_\_\_\_ (Date) \_\_\_\_\_ (Signature of taxpayer) 1/6/45  
(Name of firm or employer, if any) \_\_\_\_\_ (If this is a joint return of husband and wife, it must be signed by both)

SEE TAX TABLE BELOW

# INSTRUCTIONS AND WORK SHEETS FOR 1944 DECLARATION OF ESTIMATED INCOME AND VICTORY TAX

FORM 1040-ES)

## PURPOSE OF DECLARATION

Certain taxpayers are required by law to file a declaration of estimated income and Victory Tax. THE DECLARATION PROVIDES A BASIS FOR PAYING CURRENTLY TAXES OWED IN EXCESS OF THE TAX WITHHELD ON WAGES. This is a necessary part of the pay-as-you-go system of tax collection.

Taxes are withheld from the wages of most individuals by their employers and paid monthly to the Treasury. This covers most employed persons substantially paid up on their taxes.

Declarations and quarterly payments of estimated tax are required of persons who are not substantially paid up on their taxes by withholding from wages.

Every taxpayer must file an annual Income and Victory Tax return after the close of the year (usually on or before March 15 of the next year) and at that time he must pay any balance of tax due on the year's income over and above the amount withheld from his wages or paid in quarterly installments as estimated tax. If he has overpaid his tax, he will be entitled to a refund upon filing his annual return.

## WHO MUST MAKE A DECLARATION

A declaration must be made by every citizen or resident of the United States who, if—

1. SINGLE, OR MARRIED BUT NOT LIVING WITH SPOUSE (whether or not head of a family), expects to receive in 1944—

- (a) more than \$2,700 of wages subject to withholding; or
- (b) more than \$100 of income from all other sources, provided his total income is expected to amount to \$500 or more.

2. MARRIED AND LIVING WITH SPOUSE, expects to receive in 1944 either alone or together with his spouse—

- (a) more than \$3,500 of wages subject to withholding; or
- (b) more than \$100 of income from all other sources, provided their total combined income is expected to amount to \$1,200 or more; or his total separate income is expected to amount to more than \$624.

Thus, every individual who receives wages which are not subject to withholding—for example, compensation for agricultural labor or domestic service—and every individual who receives income from dividends, interest, rents, or gains from property transactions or from a business or profession, must file a declaration if his income for 1944 is expected to exceed the amounts stated in paragraphs 1 (b) and 2 (b) above.

In addition, a declaration is required of any individual whose income for 1943 was in excess of the amounts stated above.

In applying the foregoing rules, the first \$1,500 of military pay should be excluded from income.

Husbands and wives who are only temporarily apart—for example, if one is in the armed forces—are considered to be "living together." Otherwise, separated husbands and wives are considered "single persons."

These rules apply also to aliens who are residents of Canada or Mexico and whose wages are subject to withholding in this country. Other nonresident aliens are not required to file declarations.

## GENERAL INSTRUCTIONS

**A. JOINT DECLARATION.**—A joint declaration may be filed by husband and wife living together, provided they are both citizens or residents of the United States. A joint declaration is permissible even though one spouse has no income.

Even though a joint declaration is filed, separate annual income tax returns may be filed for the taxable year, in which case the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

**B. AMENDED DECLARATION.**—An amended declaration (to be marked "Amended") may be filed for the taxable year 1944 on or before the 15th day of the last month of any quarter of such taxable year subsequent to that in which the original declaration or last amended declaration was filed. The amended declaration must be filed with the collector of internal revenue with whom the original declaration was filed.

Any increase or decrease in estimated tax should be spread evenly over the remaining installments.

**C. PENALTIES.**—The following penalties are imposed by law:

*For failing to file declaration or failing to pay estimated tax.*—Five percent of the unpaid amount of each installment due but unpaid plus 1 percent for each month or part of a month (except the first) during which such amount remains unpaid, up to a maximum of 10 percent of the unpaid amount of such installment.

*For underestimating tax by more than 20 percent (33% percent for farmers).*—Six percent of entire shortage in estimate, but not more than the amount by which the estimate falls short of 80 percent of the tax (or, in the case of farmers, 66% percent of the tax). This penalty will not apply if the estimated tax is computed on last year's income at this year's rates and exemptions and is paid on time in equal quarterly installments or is paid ahead of time (or, in the case of farmers, is paid in full on or before the 15th day of the last month of the taxable year).

*Penalties provided for willful failure to make a return or for willfully making a false return are likewise applicable to declarations.*

**BEFORE FILING IN YOUR COPY OF DECLARATION BELOW, TURN TO PAGE 2 OR 3 TO COMPUTE YOUR ESTIMATED INCOME AND VICTORY TAX FOR 1944**

Form 1040-ES (Duplicate)  
United States  
Treasury Department  
Bureau of Internal Revenue

YOUR COPY OF

**Declaration of Estimated Tax for Calendar Year 1944**

or fiscal year beginning Jan 1, 1944, and ending Jan 1, 1945

(See accompanying Instructions and Work Sheets)

1. Estimated Income and Victory Tax for 1944 <u>net income from</u>	\$ <u>none</u>	
2. Estimated Income Tax withheld and to be withheld during entire year	\$ <u>none</u>	
3. ESTIMATED TAX after deducting estimated tax withheld (item 1 less item 2)	\$ <u>none</u>	
4. Less: Credit for overpayment shown on 1943 return (allowable only if credit was elected in item 17, Form 1040A, or item 23, Form 1040, for 1943)	\$ <u>          </u>	
5. If this is an amended declaration, enter payments made on account of prior declarations for this year	\$ <u>          </u>	
6. Unpaid balance of ESTIMATED TAX (item 3 less the sum of items 4 and 5)	\$ <u>none</u>	
7. Amount paid with this declaration. (Read carefully Instructions 3 and 4 on Form 1040-ES)	\$ <u>none</u>	

**COPY THESE FIGURES  
ON THE DECLARATION  
WHICH YOU WILL FILE  
WITH THE COLLECTOR**

**KEEP THIS COPY FOR  
USE IN MAKING YOUR  
ANNUAL RETURN.**

Social Security Number, if any \_\_\_\_\_

Name Louto and S. S. Duquet

File this return with Collector of Internal Revenue on or before March 15, 1946. Any balance of tax due (item 8, below) must be paid in full with return. See separate Instructions for filling out return.

**FORM 1040**  
Treasury Department  
Internal Revenue Service

**U. S. INDIVIDUAL INCOME TAX RETURN**  
FOR CALENDAR YEAR 1945

**1945**

or fiscal year beginning Jan. 1 1945, and ending Jan. 1 1946

**EMPLOYEES.**—Instead of this form, you may use your Withholding Receipt, Form W-2, as your return, if your total income was less than \$5,000, consisting wholly of wages shown on Withholding Receipts or of such wages and not more than \$100 of other wages, dividends, and interest.

Do not write in these spaces

File Code \_\_\_\_\_  
Serial No. \_\_\_\_\_  
District \_\_\_\_\_  
(Cashier's Stamp)

NAME J. Edgar Hoover  
(PLEASE PRINT. If this return is for a husband and wife, use both first names)

ADDRESS 1400 ...  
(PLEASE PRINT. Street and number or rural route)

(City or town, postal zone number) (County) (State)

Occupation Director Social Security No. \_\_\_\_\_

**Your Exemptions**

List your own name. If married and your wife (or husband) had no income, or if this is a joint return of husband and wife, list name of your wife (or husband). List names of other close relatives (as defined in instruction 1) with 1945 incomes of less than \$500 who received more than one-half of their support from you. If this is a joint return of husband and wife, list dependent relatives of both.

1.	Name (please print)	Relationship	Name (please print)	Relationship
Your name	<u>John J. Hoover</u>	<u>xxxxxxx</u>	<u>Patricia Ann</u>	<u>dst.</u>
	<u>Eida E. Hoover</u>	<u>wife</u>	<u>Eugene P.</u>	<u>son</u>
	<u>Eida Mae</u>	<u>dst.</u>	<u>Larry E.</u>	<u>son</u>
	<u>1400, St.</u>	<u>son</u>		

**Your Income**

Enter your total wages, salaries, bonuses, commissions, and other compensation received in 1945, BEFORE PAY-ROLL DEDUCTIONS for taxes, dues, insurance, bonds, etc. Members of armed forces and persons claiming traveling or reimbursed expenses, see Instruction 2.

2.	Print Employer's Name	Where Employed (City and State)	Amount
	<u>Farmer (self)</u>		<u>\$ 644.30</u>
			Enter total here → <u>\$ 644.30</u>

3. Enter here the total amount of your dividends and interest (including interest from Government obligations unless wholly exempt from taxation) \_\_\_\_\_

4. If you received any other income, give details on page 2 and enter the total here \_\_\_\_\_

5. Add amounts in items 2, 3, and 4, and enter the total here \$ 644.30  
If item 5 includes incomes of both husband and wife, show husband's income here, \$ 322.15 wife's income here, \$ 322.15

**How to Figure Your Tax**

IF YOUR INCOME WAS LESS THAN \$5,000.—You may find your tax in the tax table on page 4. This table, which is provided by law, automatically allows about 10 percent of your total income for charitable contributions, interest, taxes, casualty losses, medical expenses, and miscellaneous expenses. If your expenditures and losses of these classes amount to more than 10 percent, it will usually be to your advantage to itemize them and compute your tax on page 3.  
IF YOUR INCOME WAS \$5,000 OR MORE.—Disregard the tax table and compute your tax on page 3. You may either take a standard deduction of \$500 or itemize your deductions, whichever is to your advantage.  
HUSBAND AND WIFE.—If husband and wife file separate returns, and one itemizes deductions, the other must also itemize deductions.

**Tax Due or Refund**

6. Enter your tax from table on page 4, or from line 15, page 3 \$ none  
7. How much have you paid on your 1945 income tax?  
(A) By withholding from your wages \$  
(B) By payments on 1945 Declaration of Estimated Tax none  
Enter total here → none  
8. If your tax (item 6) is larger than payments (item 7), enter BALANCE OF TAX DUE here \$ none  
9. If your payments (item 7) are larger than your tax (item 6), enter the OVERPAYMENT here \$  
Check (✓) whether you want this overpayment: Refunded to you  or Credited on your 1946 estimated tax

If you filed a return for a prior year, what was the latest year? 1944  
To which Collector's office was it sent? New Orleans, La.  
To which Collector's office did you pay amount claimed in item 7 (B), above? New Orleans, La.  
Is your wife (or husband) making a separate return for 1945? No  
If "Yes," write below:  
Name of wife (or husband) \_\_\_\_\_  
Collector's office to which sent \_\_\_\_\_

I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return.

(Signature of person (other than taxpayer or agent) preparing return) J. Edgar Hoover (Date) 1/14/46  
(Signature of taxpayer) \_\_\_\_\_ (Date) \_\_\_\_\_  
(Name of firm or employer, if any) \_\_\_\_\_ (If this is a joint return of husband and wife, it must be signed by both)

## Results of Service Center Audits Fiscal Year 1999

Service Center	Number of Audits			Average Additional Taxes and Penalties Recommended		Percent of Audits with Tax Change	
	All	Low Income only	% Low Income	All	Low Income only	All	Low Income only
All	715,789	524,050	73.2%	\$2,085	\$2,171	85.4%	88.8%
Andover	45,905	37,283	81.2%	\$2,340	\$2,172	88.7%	91.4%
Atlanta	30,205	19,350	64.1%	\$1,953	\$1,933	80.7%	89.6%
Austin	52,716	43,318	82.2%	\$2,247	\$2,299	88.9%	90.3%
Brookhaven	129,170	98,369	76.2%	\$2,023	\$2,105	86.4%	88.3%
Cincinnati	56,725	48,422	85.4%	\$2,692	\$2,842	89.1%	93.5%
Fresno	87,159	34,205	39.2%	\$1,403	\$1,944	80.3%	81.2%
Kansas City	40,078	22,472	56.1%	\$2,603	\$2,419	75.0%	83.1%
Memphis	92,587	82,593	89.2%	\$2,142	\$2,135	94.2%	96.9%
Ogden	136,297	111,335	81.7%	\$1,892	\$1,930	81.9%	83.0%
Philadelphia	44,947	26,703	59.4%	\$2,457	\$2,369	85.8%	88.5%

Source: Internal IRS data compiled by TRAC. See notes on service center audits.

Note - Low Income taxpayers filed simpler 1040-type return with < \$25,000 in total positive income

