

1 U.S. District Court
2 Western District of Texas
3 200 West 8th St., Room 130
4 Austin, Texas 78701
5

6 PETITION TO QUASH THIRD PARTY Summons

7 Brief and Memorandum of Law
8 Declaratory Relief Request
9

10 re: Summons to Volusion, Inc.

11 Jeffrey T. Maehr, Petitioner; U.S., Respondent.
12

13 Jeffrey T. Maehr, Pro Se, and depending on equal protection under the Constitution, the
14 Judicial machinery of the Court, and Rule of Law comes now before this Honorable
15 Court, and moves your honor to take Mandatory Judicial Notice under Federal Rule
16 201(d) of the following:
17

18 a. The United States Supreme Court, in *Haines v Kerner* 404 U.S. 519 (1972)
19 stated that all litigants defending themselves must be afforded the opportunity to
20 present their evidence and that the Court should look to the substance of the complaint
21 rather than the form, and that a minimal amount of evidence is necessary to support
22 contention of lack of good faith. Fortney v. U.S., C.A.9 (Nev.) 1995, 59 F.3d 117.

23 **b)** *In Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir.1998) (per
24 curiam): “*Pro se* pleadings are held to a less stringent standard than pleadings drafted
25 by attorneys and will, therefore, be liberally construed.”

26
27 **c)** “Substantive federal rights are grounded in Federal Constitution and laws
28 enacted by Congress and are not created by these rules or by a mere pleading of the
29 rules.” *Weiner v. Bank of King of Perussia*, D.C.Pa. 1973, 358 f.Supp. 684.

30
31 **d)** “Substantive rights remain unaffected by these rules and will be enforced.”
32 *Gil/son v. Vendome Petroleum Corporation*, D.C.La. 1940, 35 Supp. 815.

33
34 **e)** “The spirit of all these rules is to settle controversies upon their merits rather
35 than to dismiss actions on technical grounds, to permit amendments liberally...”
36 *Fierstein v. Piper Aircraft Corp.*, D.C.Pa. 1948, 79 F.Supp. 217.

37
38 **f)** “It is contrary to spirit of these rules for decisions on merits to be avoided on
39 basis of mere technicalities.” *Forman v. Davis*, Mass.19632, 83 S.Ct. 227, 371 U.S.
40 178m 9 K, Ed2d 222, on remand 316 F.2d 254.

41
42 **g)** “Court and litigants must follow these rules in same manner as they must obey
43 a statute.” *Beasley v. U.S.*, D.C.S.C.1948, 81, F.Supp. 518

44
45 **h)** “These rules have the same effect as a statute and are as binding upon the

46 court as upon counsel." Barrezueta v. Sword S.S. Line, D.C.N.Y. 1939, 27 F.Supp.
47 935.

48
49 i) "The congressional authority given Supreme Court to adopt these rules was
50 limited to matters of procedure, and it was expressly provided that substantive rights
51 should neither be abridged, enlarged nor modified." John R. Alley & Co. v. Federal Nat.
52 Bank of Shawnee, Shawnee County, Okl., C.C.A. Okl. 1942, 124 F.2d 995.

53
54 j) "Spirit of these rules is that technical requirements are abolished and that
55 judgments should be founded on facts and not on formalistic defects." Builders Corp. of
56 America v. U.S.,C.A.Cal. 1958, 259 F.2d 766.

57
58 k) "This Constitution, and the laws of the United States which shall be made in
59 pursuance thereof;... shall be the supreme law of the land; and the judges in every state
60 shall be bound thereby... The Senators and Representatives and members of the State
61 legislature, and all executive and judicial officers of the United States and the several
62 States, shall be bound thereby, anything in the Constitution or laws of any State to the
63 contrary notwithstanding." The Constitution of the united States of America, Article VI,
64 Cl 2, 3.

65
66 l) "The United States is entirely a creature of the Constitution. Its power and
67 authority have no other source. It can only act in accordance with all the limitations
68 imposed by the Constitution." Reid v Covert 354 US 1, 1957.

69 m) "A judge is an officer of the court, as well as are all attorneys. A state judge is
70 a state judicial officer, paid by the State to act impartially and lawfully. A federal judge is
71 a federal judicial officer, paid by the federal government to act impartially and lawfully. A
72 *judge is not the court.*" *People v. Zajic*, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).

73
74 n) "Fraud upon the court is fraud which is directed to the judicial machinery itself
75 and is not fraud between the parties or fraudulent documents, false statements or
76 perjury. ... It is where the court or a member is corrupted or influenced or influence is
77 attempted or where the judge has not performed his judicial function --- thus where the
78 impartial functions of the court have been directly corrupted." *Bulloch v. United States*,
79 763 F.2d 1115, 1121 (10th Cir. 1985).

80
81 o) "The Court is free to act in a judicial capacity, free to disagree with the
82 administrative enforcement actions if a substantial question is raised or the minimum
83 standard is not met. The District Court reserves the right to prevent the 'arbitrary'
84 exercise of administrative power, by nipping it in the bud." *United States v. Morton Salt*
85 *Co.*, 338 U.S. 632, 654.

86
87 p) "It is on this account that our law is deemed certain, and founded in
88 permanent principles, and not dependant on the caprice or will of judges. A more
89 alarming doctrine could not be promulgated by any American court, than that it was at
90 liberty to disregard all former rules and decisions, and to decide for itself, without
91 reference to the settled course of antecedent principles." *Faye Anastasoff vs. United*

92 *States of America, 8th Circuit Court, 2000.*

93
94 q) Congress wanted third-party record keeper provision of subsec. (a)(3) of this
95 section to be construed broadly in order to give taxpayers every opportunity to voice
96 their privacy interests when those interests are implicated. *Fink v. U.S.*, E.D.Mo.1983,
97 578 F.Supp. 617.

98
99 r) This section permitting intervention of taxpayer when records held by a third-
100 party record keeper are subpoenaed by the Internal Revenue Service should be broadly
101 construed. *U. S. v. New York Telephone Co.*, C.A.2 (N.Y.) 1982, 682 F.2d 313.

102
103 Petitioner disputes legal veracity of this Summons and of Respondent, and demands
104 strict proof consonant with the Federal Rules of Evidence and the Rule of Law.

105
106 **STATEMENT OF STANDING**

107
108 Jeffrey T. Maehr - hereinafter "Petitioner" – has standing to petition this court to quash
109 the 3rd party IRS Summons for reason:

110
111 Petitioner has timely filed this petition, postmark and Certificate of Mailing attesting,
112 within the period provided by law. 7609(a)(2); Petitioner is the persons who is identified
113 in the description of the records contained in the Summons on Volusion, Inc; Petitioner

114 claims an interest relating to personal, private information being Summoned under Color
115 of Law.

117 **Argument (Emphasis Petitioners throughout).**

118
119 Petitioner requests the third-party Summons to Volusion, Inc be quashed based upon
120 the following, under Rules of Evidence, Rules of Civil Procedure and Case law:

121
122 a) Petitioner maintains and provides evidence for the fact that the Respondent
123 has no jurisdiction over Petitioner because Respondent's own testimony denies it is a
124 Federal Agency, so it has no authority to be requesting personal information from any
125 company I am privately contracted with: (See Attachment S1-5). Furthermore,
126 Respondent is only an agency of the International Monetary Fund (IMF); Public Law 94-
127 564, Senate Report 94-1148 pg. 5967, Reorganization Plan No. 26, Public Law 102-
128 391).

129
130 b) The IR Code 26 is NOT positive law, but is only prima facie evidence of law,
131 but once challenge is made with evidence herein, legal authority and jurisdiction must
132 be proven on the record. (See Attachments U and T).

133
134 "There is no discretion to ignore that lack of jurisdiction." Joyce v. US, 474 F2d 215.

135 "The burden shifts to the court to prove jurisdiction." Rosemond v. Lambert, 469 F2d

136 416.

137
138 “Court must prove on the record, all jurisdiction facts related to the jurisdiction
139 asserted.” Lantana v. Hopper, 102 F2d 188; Chicago v. New York, 37 F Supp 150.

140
141 c) Respondent is not a legally created agency and no such entity named
142 “Internal Revenue Service,” or “IRS” actually exists in law, as prima facie evidence
143 reveals. No agency with the name “Internal Revenue Service” or “IRS” was ever
144 established by law according to Congress. (See Attachment L). Petitioner challenges
145 any legal jurisdiction by the “IRS” to be doing what they are doing without lawful
146 authority by Congress in the State of Colorado or any other state. Petitioner challenges
147 this presumption and has found no laws creating this agency, therefore, they have no
148 jurisdiction or power over Petitioner until the law is provided and proven. (See
149 Attachment U).

150
151 Title 4 Section 72

152 Section 72. Public offices; at seat of Government

153
154 “All offices attached to the seat of government shall be exercised in the District of
155 Columbia , and not elsewhere, except as otherwise expressly provided by law.”

156
157 Petitioner cannot locate any other law expressly provided.

159 d) No evidence whatsoever has been forthcoming to even begin to claim that
160 Petitioner is personally or legally “liable” to the IRS or his records being subject to them.
161 Liability cannot be created by fiat or presumption (See Attachment H), or “because we
162 say so.” Liability cannot exist absent a law creating that liability or proof that Petitioner’s
163 personal information can in any way create any liability anymore than a German or
164 Frenchman can be made “liable” to the IRS absent law that does so FIRST.

165
166 Petitioner’s personal documents, nor his finances, can create a personal legal liability in
167 and of themselves. Ledger entries cannot create “liability.” Personal finances CANNOT
168 create liability absent being “made liable” through the mechanism of law. Liability is
169 ONLY a product of law. Law, alone, must create the liability, and THEN personal
170 documents or third party documents, or finances, could be lawfully used as evidence to
171 support the degree of liability. Petitioner’s personal records, or Respondent’s hearsay
172 testimony or belief, or even the claims of “that’s the way we’ve always done it” by
173 Respondent, does not create such liability. Petitioner can find no place in the IR Code
174 making him personally liable. **The existence of finances in no way creates such**
175 **liability except through presumption**, and Respondent has provided no evidence in
176 fact for such liability, within the Summons or elsewhere.

177
178 In *Billings v. U.S.*, 232 U.S. 261, 34 S.Ct. 421 (1914), the Supreme Court clearly
179 acknowledged the basic and long-standing rule of statutory construction:

181 "Tax statutes . . . should be strictly construed, and, if any ambiguity be found to exist, it
182 must be resolved in favor of the citizen." *Eidman v. Martinez*, 184 U.S. 578, 583; *United*
183 *States v. Wigglesworth*, 2 Story, 369, 374; *Mutual Benefit Life Ins. Co. v. Herold*, 198 F.
184 199, 201, aff'd 201 F. 918; *Parkview Bldg. Assn. v. Herold*, 203 F. 876, 880; *Mutual*
185 *Trust Co. v. Miller*, 177 N.Y. 51, 57." (Id at p. 265,).

186
187 Ambiguity in the IR Code is very evident, therefore, the necessity for Petitioner's
188 personal financial information on presumed "tax liability or the collection of the tax
189 liability" (See Summons) based on personal financial records is without merit and has
190 no legal standing and is under the color of law and outside Respondent's legal
191 jurisdiction.

192
193 Hearsay and extremely presumptive arguments are baseless and wholly without merit.
194 Respondent is basing the Summons on presumptive claims with NO evidence in fact
195 other than presumption.

196
197 e) In Summons, section labeled "Provisions of the IR Code," **(See Attachment**
198 **W)** references throughout make mention of, "The Secretary...", "The Secretary may...",
199 "The Secretary shall...", "The Secretary establishes...", etc. Petitioner has seen no
200 authority within these code sections, or any other place in the IR Code or elsewhere in
201 law, for the Respondent to be acting on behalf of the Secretary of the Treasury, and
202 challenges such authority and jurisdiction. The Code clearly states "The Secretary..."

203 “shall do...” thus and such, which also includes “**serving the Summons,**” (7603(a)),
204 and having the Summoned “**appear before**” the Secretary, (7610(a)(1)), among many
205 other references that require the Secretary, and NOT the Respondent or any agent who
206 is employed by Respondent, to be acting in place of the Secretary.

207
208 The Summons itself states, “**You are hereby summoned and required to appear**
209 **before William R. Sothen, an officer of the Internal Revenue Service...**” This is in
210 direct conflict and contravention of not only (7610(a)(1)), but also the prima facie
211 evidence that no officer can exist if there is no legally created agency. (See
212 Attachments S and T and c) above).

213
214 Respondent finds no laws authorizing any Respondent agent usurpation of the
215 Secretary of the Treasury’s authority, office or duties, and challenges any and all
216 Respondent’s presumed authority contrary to the IR Code and other law, which are too
217 numerous to name, but provide self-authenticating prima facie evidence in the
218 Summons itself.

219
220 f) Respondent’s agents have violated the 1998 IRS Restructuring & Reform Act
221 which requires they send NOTICE of Summons to Petitioner PRIOR TO sending the
222 Summons to third parties. Instead, Respondent copies Petitioner simultaneously. In
223 Attachment W, U.S.C. Section 7602(c)(1), it clearly states; “An officer or employee of
224 the Internal Revenue Service may not contact any person other than the taxpayer with

225 respect to the determination of collection or collection of the tax liability of such taxpayer
226 without providing **reasonable notice in advance** to the taxpayer that contacts with
227 persons other than the taxpayer may be made.”

228
229 Petitioner denies any such “reasonable notice,” or ANY notice at all, of this possible
230 contact or any planned contact by Respondent’s agent Sothen, and maintains
231 Sothen/Respondent is in violation of this code.

232
233 g) Summons is facially void: Federal Rules of Civil Procedure, Rule 4, requires
234 prior judicial approval... Due Process, the Judge’s signature and stamp of the court, all
235 of which are lacking in this Summons, and the Agents are acting under the Color of
236 Law, while they require Petitioner to comply with Rules of Civil Procedures (See
237 Attachment J). Petitioner would not be able to get away with this violation in seeking
238 someone’s personal information or property without due process, and the case would
239 be thrown out of court at the first. For Respondent to suggest they do not have to
240 comply with or provide Due Process rights is a gross violation of Petitioner’s
241 Constitutional rights.

242
243 In addition, the following serves as more evidence Respondent is acting outside the law:

244
245 1. "...absent an effort to seek enforcement through a federal court, IRS Summonses
246 apply no force to taxpayers, and no consequence whatever can befall a taxpayer who
247 refuses, ignores, or otherwise does not comply with an IRS Summons until that

248 Summons is **backed by a federal court order** [a taxpayer] cannot be held in contempt,
249 arrested, detained, or otherwise punished for refusing to comply with the original IRS
250 Summons, no matter the taxpayer's reasons, or lack of reasons for so refusing." Schulz
251 v. IRS, Case No. 04-0196-cv.

252
253 Petitioner maintains that Respondent's Summons restrictions also apply to third party
254 recipients under this precedent and challenges their "presumed" right to access
255 Petitioner's personal information, even through third party records, without cause. The
256 Schulz Court included **ALL** administrative actions by the Respondent, which includes
257 issuing third party Summonses:

258
259 "Any legislative scheme that denies subjects an opportunity to seek judicial review of
260 **administrative orders** except by refusing to comply, and so put themselves in
261 immediate jeopardy of possible penalties 'so heavy as to prohibit resort to that remedy,'
262 Oklahoma Operating Co. v. Love, 252 U.S. 331, 333 (1920), **runs afoul of the due**
263 **process requirements of the Fifth and Fourteenth Amendments.**" Schulz v. IRS and
264 Anthony Roundtree.

265
266 Although the above precedent regards first party Summons, the case law applies, in
267 spirit and intent, to third party Summons under the same laws, and still deals with my 5th
268 and 14th Amendment rights being violated if this Summons is granted and my private,
269 personal information is released, even by a third party. Would the courts look favorably

270 upon the release of someone's private information by me to a third party, such as their
271 social security number, bank account numbers and information, credit card numbers,
272 etc., without cause, legal right or authority? Petitioner is making this argument to
273 protect his own property and personal information, even though on behalf of Volusion,
274 Inc.

275
276 Respondent may be hoping that Volusion, Inc., will violate the law on behalf of
277 Respondent simply by providing coercion and intimidation pressure through such void
278 documents and procedures, depending on legal and constitutional ignorance, and
279 presumption, of Volusion, Inc., personnel.

280
281 2. Tiffany Fine Arts, Inc. V. United States, 469 U.S. 310 (1985), states that Summons
282 can be served... **“if the information sought is necessary to ascertain that person’s**
283 **tax liability.”** Petitioner maintains that his personal information from Volusion, Inc., is
284 NOT necessary to ascertain Petitioner’s tax liability because there is no liability
285 demonstrated by law or in their own code, and such documents cannot create this
286 liability. (See c) above).

287
288 h) The Summons dated January 6, 2009 has the name “Lynn Bender” listed
289 along with Volusion, Inc. The Summons clearly states that the summoned is... “required
290 to appear... to give testimony, and to bring with you (specific person not named, but
291 presumed to be Lynn Bender) and to testify, and produce for examination the following

292 books, records, papers, and other data relating to the tax liability or the collection of the
293 tax liability...”

294
295 Petitioner challenges the authority for the Respondent to request anything from
296 Volusion, Inc., that is NOT provided by a **Competent Fact Witness**, someone who has
297 **first hand knowledge** of all records and transactions, and can provide **authenticated**
298 **evidence** regarding said records. There is no evidence in fact presented by
299 Respondent that Lynn Bender, or any other unnamed person employed by Volusion,
300 Inc., is qualified to give the “testimony” requested. Evidence must be provided by
301 someone who has first hand knowledge of **ALL** records and entries provided, under
302 oath and penalty of perjury. Petitioner maintains that Respondent must provide prior
303 proof of such authority, from Volusion, Inc., to include name of any employee who can
304 authenticate all documents, and all entries in records relating to Petitioner, otherwise
305 Respondent is seeking only hearsay and “presumptive” testimony from unqualified
306 representatives, and records which are not authenticated, which is required in a court of
307 law. Mistakes are often made by employees and in record keeping and cannot be used
308 as evidence short of authenticated evidence. All such entries must be validated.

309
310 Since Summons is vague as to who is being summoned, their authority to provide
311 testimony or provide authenticated evidence in fact in regard to Petitioner’s “tax liability”
312 (something not proven or in record), it is therefore void as it is far too general in nature,
313 and only a fishing expedition.

314 Petitioner challenges the expertise of Lynn Bender, or any other Volusion, Inc.,
315 employee, that they are NOT qualified to determine... (Petitioner quotes from
316 Summons), “data related to the tax liability or the collection of the tax liability” of the
317 Petitioner. Lynn Bender, or any other Volusion, Inc., employees are not proven tax
318 experts, or expert witnesses, and have no knowledge whatsoever of what makes
319 Petitioner personally “liable,” or any supposed “data related to the tax liability or the
320 collection of the tax liability,” apart from “presumptive” hearsay, misunderstanding or
321 misinformation, or personal belief, and therefore cannot give “testimony” without it being
322 “presumptive,” hearsay, and irrelevant.

323
324 **Petitioner challenges any such person designated to present such “data related**
325 **to the tax liability or the collection of the tax liability,” and their “presumptions”**
326 **regarding any documents or records which suggest an unproven, invalidated and**
327 **unsubstantiated “tax liability.”**

328
329 I) Respondent’s attempts to access Petitioner’s private information, whether from
330 third party sources or Petitioner directly, is to violate Petitioner’s privacy and circumvent
331 the law. Despite the actual physical “documents” being sought potentially claimed as
332 possibly being the “property” of Volusion, Inc., (property which I have a direct legal right
333 to obtain copies of and have access to at any time, suggesting clear “ownership” and
334 “rights” to said documents) the Petitioner’s **personal, private and financial**
335 **information** contained therein is NOT Volusion’s personal property to dispose of as

336 they wish, and is being illegally sought by Respondent under color of law. The
337 information cannot be separated from the paper documents. This personal and
338 financial information certainly is relevantly attached to Petitioner's Constitutional rights
339 privacy, and private information, whether directly or indirectly. Volusion, Inc., has a duty
340 to Petitioner to NOT illegally or unconstitutionally release Petitioner's private information
341 to others acting under the color of law.

342
343 "The search for and seizure of stolen or forfeited goods, or goods liable to duties and
344 concealed to avoid the payment thereof, are totally different things from a search for
345 and seizure of a man's **private books and papers for the purpose of obtaining**
346 **information therein contained, or of using them as evidence against him.** The two
347 things differ *toto coelo*. In the one case, the government is entitled to the possession of
348 the property; in the other it is not."

349
350 "Papers are the owner's goods and chattels; they are his dearest property, and are so
351 far from enduring a seizure, that they will hardly bear an inspection; and though the eye
352 cannot by the laws of England be guilty of a trespass, yet where private papers are
353 removed and carried away **the secret nature of those goods** will be an aggravation of
354 the trespass, and demand more considerable damages in that respect. Where is the
355 written law that gives any magistrate such a power? Petitioner can safely answer, there
356 is none; and therefore it is too much for us, without such authority, to pronounce a
357 practice legal which would be subversive of all the comforts of society." at 628. *BOYD v.*

358 U S, 116 U.S. 616, 623 (1886):

359
360 m) Petitioner's 4th Amendment right is being violated **without due cause or**
361 **process:**

362
363 "The right of the people to be secure in their persons, houses, papers, and effects,
364 against unreasonable searches and seizures, shall not be violated, and no Warrants
365 shall issue, but upon probable cause, supported by Oath or affirmation, and particularly
366 describing the place to be searched, and the persons or things to be seized." 4th
367 Amendment.

368
369 "It does not require the actual entry upon premises and search **for a seizure of papers**
370 **to constitute an unreasonable search and seizure within the meaning of the**
371 **Fourth Amendment. A compulsory production** of a party's private books and
372 records, **to be used against himself or his property** in a criminal penal proceeding or
373 a forfeiture, is within the spirit or meaning of the (4th) Amendment." Boyd vs. U.S., 116
374 U.S. 616.

375
376 Respondent's attempts to obtain petitioner's personal information (directly tied to
377 Petitioner's personal life) from others Petitioner is contracted with or doing business with
378 **is unreasonable**, given the amount of good faith efforts Petitioner has shown toward
379 communicating with the Respondent, (Individual Master File-IMF record attests) and

380 evidence herein that refutes Respondent's authority to force Volusion, Inc., to do so
381 under the color of law.

382
383 n) Petitioner maintains that Respondent is showing callous, wanton and willful
384 disregard for law and for IR Code regulations, presenting malicious malfeasance and
385 misfeasance, violation of Constitutional and Civil Rights, acting outside constitutional or
386 Congressional authority, willful fraud, and is involved with a Racketeering scheme in
387 concert with other parties;

388
389 "Fraud in its elementary common law sense of deceit... **includes the deliberate**
390 **concealment of material information in a setting of fiduciary obligation.** A public
391 official is a fiduciary toward the public, and **if he deliberately conceals material**
392 **information from them he is guilty of fraud."** McNally v. U.S., 483 U.S. 350,
393 371 372, Quoting U.S. v Holzer, 816 F.2d. 304, 307.

394
395 Petitioner maintains he has met their burden to submit a "minimal amount of evidence"
396 to support contention of a void Summons, Agents/IRS lack of good faith, potential fraud
397 by Agents/IRS, all supporting Cause for Quashing third party Summons and granting
398 Petitioner Relief.

399
400 **Do Now Request:**
401

402 Citizen's of these United States have only the Rule of Law and the Constitution to
403 govern this land. We are expected to know and comply with the law. In order to do
404 that, we must read the law and study all facets of it to determine where we are liable.
405 When one comes to find that the Law has been used maliciously against them, they
406 have ONLY to resort to the law and Constitution, and the Judicial Machinery of the
407 Courts to find relief and to bring government's under the chains of the Constitution.

408
409 "Anyone entering into an arrangement with the government takes the risk of having
410 accurately ascertained that he who purports to act for the government stays within the
411 bounds of his authority, **even though the agent himself may be unaware of**
412 **limitations upon his authority.**" The United States Supreme Court, Federal Crop Ins.
413 Corp, v. Merrill, 332 US 380 388 L1947)

414
415 **Petitioner respectfully requests the following:**

416
417 1. The Honorable Court Grant this Petition to Quash the 3rd party IRS Summons
418 to Volusion, Inc., for all the above reasons.

419
420 2. It is not now, nor has it ever been the intent of Petitioner to avoid any legal
421 obligation Petitioner might lawfully and Constitutionally be subject to, to the best of
422 Petitioners' ability. In order that the Petitioner can willfully comply in good faith and with
423 all due alacrity, Petitioner requests this Honorable Court to require the

424 Respondent/Agents be ordered to answer all of Petitioners' previous correspondence
425 for the last 6 years (IRS IMF record attests) with factual, lawful answers to all questions,
426 point by point, regarding all elements related to IRS authority and to do so within 60
427 days, considering they are claiming to act within the law and Constitution, therefore 60
428 days should be adequate time to prepare what they should already know and have on
429 record.

430
431 3. Compensation for costs of time and expenses in responding to Respondent
432 unsubstantiated and unproven actions, to include all costs for filing Petitions to Quash,
433 at 75 hours research and preparation time, travel time and materials, at \$125 per hour.

434
435 4. If Respondent cannot provide evidence of personal liability against Petitioner,
436 or Evidence in Fact of authority over Petitioner or his personal property, records or
437 information, Petitioner requests declaratory judgment that Petitioner is NOT liable till
438 made liable by law, and is NOT under any demand to comply with Respondent's future
439 actions till Respondent has provided valid law to the contrary.

440
441 5. Petitioner requests a Cease and Desist order against Respondent against all
442 future actions of any kind against Petitioner without lawful adjudication, and without
443 Evidence in Fact of their position, is presented. Respondent has sent at least 15
444 Summonses to Third Parties to date, presenting a form of "malicious prosecution" in
445 spite of good faith efforts for responses from them on various legal issues over the last
446 6 years.

447 Respectfully submitted to this Honorable Court dated this _____day of January,
448 2009.

449

450

451 Jeffrey T. Maehr, Pro Se

452 924 E. Stollsteimer Rd

453 Pagosa Springs, CO 81147

Attachment H -Presumption

Respondent uses presumptions upon which to base Summons and draws conclusions based on these presumptions. Without proof, presumptions hold no weight in law. “Presumption,” in fact, is the OPPOSITE of “due process,” as the definition of “due process” admits in Black’s Law Dictionary...

Due process of law. “Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs. A course of legal proceedings according to those roles and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights. To give such proceedings any validity, there must be a tribunal competent by its constitution — that is, by the law of the creation — to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance. *Pennoyer v. Neff* 96 US. 733, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard by testimony or otherwise, and to have the right of controverting, by proof every material fact which bears on the question of right in the matter involved. **If any question of fact or liability be conclusively be presumed against him, this is not due process of law and in fact is a VIOLATION of due process.**” [Black’s Law Dictionary, Sixth Edition, p. 500;].

“The power to create [false] presumptions is not a means of escape from constitutional restrictions” *Heiner v. Donnan* 285, US 312 (1932) and *New York Times v. Sullivan* 376 US 254 (1964).

"This court has never treated a presumption as any form of evidence. See, e.g., *A.C. Aukerman Co. v. R.L. Chaides Const. Co.*, 960 F.2d 1020, 1037 (Fed. Cir. 1992) “[A] presumption is not evidence.”); see also: *Del Vecchio v. Bowers*, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229 (1935) (“[A presumption] cannot acquire the attribute of evidence...”); *New York Life Ins. Co. v. Gamer*, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938) (“[A] presumption is

not evidence and may not be given weight as evidence.“).

“Conclusive presumptions affecting protected interests: A conclusive presumption may be defeated where its application would impair a party’s constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party’s due process and equal protection rights. [Viandis v. Kline (1973) 412 U.S.441, 449, 93 S.Ct 2230, 2235; Cleveland Bed, of Ed. v. LaFleur (1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215.

"But where the conduct or fact, the existence of which is made the basis of the statutory presumption, itself falls within the scope of a provision of the Federal Constitution, a further question arises. It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create Presumptions is not a means of escape from constitutional restrictions. And the state may not in this way interfere with matters withdrawn from its authority by the Federal Constitution, or subject an accused to conviction for conduct which it is powerless to proscribe.” [Bailey v. State ofAlabama, 219 U.S. 219 (1911)].

Attachment J

To: Jeffery T. Maehr; Pure Health Systems, LLC; & other entities owned or controlled

Date: January 6, 2009

Address: 924 E. Stollsteimer Place, Pagosa Springs, CO 81147-8628

TEXAS

Enclosed is a copy of a summons served by the IRS to examine records made or kept by, or to request testimony from, the person summoned. If you object to the summons, you are permitted to file a lawsuit in the United States district court in the form of a petition to quash the summons in order to contest the merits of the summons.

General Directions

1. You must file your petition to quash in the United States district court for the district where the person summoned resides or is found.
2. You must file your petition within 20 days from the date of this notice and pay a filing fee as may be required by the clerk of the court.
3. You must comply with the Federal Rules of Civil Procedure and local rules of the United States district court.

Instructions for Preparing Petition to Quash

1. Entitle your petition "Petition to Quash Summons."
2. Name the person or entity to whom this notice is directed as the petitioner.
3. Name the United States as the respondent.
4. State the basis for the court's jurisdiction, as required by Federal Rule of Civil Procedure. See Internal Revenue Code Section 7609(h).
5. State the name and address of the person or entity to whom this notice is directed and state that the records or testimony sought by the summons relate to that person or entity.

6. Identify and attach a copy of the summons.
7. State in detail every legal argument supporting the relief requested in your petition. See Federal Rules of Civil Procedure. Note that in some courts you may be required to support your request for relief by a sworn declaration or affidavit supporting any issue you wish to contest.
8. Your petition must be signed as required by Federal Rule of Civil Procedure 11.
9. Your petition must be served upon the appropriate parties, including the United States, as required by Federal Rule of Civil Procedure 4.
10. At the same time you file your petition with the court, you must mail a copy of your petition by certified or registered mail to the person summoned and to the IRS. Mail the copy for the IRS to the officer whose name and address are shown on the face of this summons. See 7609(b)(2)(B).

The court will decide whether the person summoned should be required to comply with the summons request. Your filing of a petition to quash may suspend the running of the statute of limitations for civil liability or for criminal prosecution for offenses under the tax laws for the tax periods to which the summons relates. Such suspension would be in effect while any proceeding (or appeal) with respect to the summons is pending.

The relevant provisions of the Internal Revenue Code are enclosed with this notice. If you have any questions, please contact the Internal Revenue Service officer before whom the person summoned is to appear. The officer's name and telephone number are shown on the summons.

Received
1-8-09



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

Part D — to be given to noticee



ATTACHMENT L

PAT DANNER
8TH DISTRICT, MISSOURI
COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
SUBCOMMITTEES
SURFACE TRANSPORTATION
AVIATION
COMMITTEE ON INTERNATIONAL
RELATIONS
SUBCOMMITTEE
INTERNATIONAL ECONOMIC POLICY AND TRADE

Congress of the United States
House of Representatives
Washington, DC 20515-2506

September 12, 1996

WASHINGTON OFFICE:

1323 LONGWORTH BUILDING
WASHINGTON, DC 20515
(202) 225-7041
FAX: (202) 225-8221

DISTRICT OFFICES:

U.S. Post Office, Room 338
201 SOUTH 8TH STREET
ST. JOSEPH, MO 64501-2240
(816) 233-9818
FAX: (816) 233-9848

5754 NORTH BROADWAY
BUILDING 3, SUITE 2
KANSAS CITY, MO 64118-3998
(816) 455-2256
FAX: (816) 455-2153

Bill Petterson
Route 2, Box 37
Trenton, MO 64683-9610

Dear Bill:

Thank you for contacting regarding the establishment of the Internal Revenue Service (IRS). I appreciate having the benefit of your thoughts on this issue.

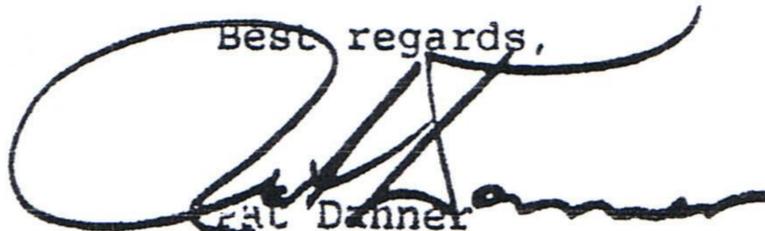
You are quite correct when you state that an organization with the actual name "Internal Revenue Service" was not established by law. Instead, in 1862, Congress approved 26 U.S.C. 7802. This statute established the office of "Commissioner of Internal Revenue." As the act states, "The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary of the Treasury." In modern times these duties and powers flow to the Commissioner who implements appropriate policy through the IRS.

In addition to Section 7802, Section 7803 authorizes the Secretary of Treasury to employ such number of persons deemed proper for the administration and enforcement of the internal revenue laws. It is these employees who comprise the IRS.

I have enclosed the appropriate section of the U.S. Code for your information. I hope you find it helpful.

Thank you again for contacting me. Please feel free to do so again with further questions on this or any other matter important to you.

Best regards,


PAT DANNER
Member of Congress

PD/hhm

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf,
in the seal of the National Archives and Records Administration, that the attached reproduction(s) is
and correct copy of documents in his custody.



SIGNATURE	
	
NAME	APR -6 2000
Steven M. Edwards	
TITLE	Regional Administrator, Pacific Alaska Region
NAME AND ADDRESS OF DEPOSITORY	
National Archives & Records Admin. 6125 Sand Point Way NE Seattle, WA 98115-7999	

BETTY M. RICHARDSON
United States Attorney
United States Attorney's Office
Box 32
Boise, Idaho 83707
Telephone: (208) 334-1211

FILED
DISTRICT COURT
BOISE, IDAHO
JAN 19 1999

RICHARD E. WARD
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-5867

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF IDAHO

DIVERSIFIED METAL PRODUCTS,
INC.,

Plaintiff,

v.

E-BOW COMPANY TRUST, INTERNAL
REVENUE SERVICE, and STEVE
MORGAN,

Defendants.

)
)
)
)
)
) CIVIL No. 98-403-B-EJL
)
) UNITED STATES' ANSWER AND CLAIM
)
)
)
)
)
)

The United States of America, through undersigned counsel hereby responds to the numbered paragraphs of plaintiff's complaint as follows:

1. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and, on that basis, denies the allegations.

2. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 2 and, on that basis, denies the allegations.

3. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 3 and, on that basis, denies the allegations.

4. Denies that the Internal Revenue Service is an agency of the United States Government but admits that the United States of America would be a proper party to this action. Admits that the IRS has served a Notice of Levy on plaintiff for funds owed to Defendant Steve Morgan.

5. Admits that the IRS has made a demand on plaintiff for payment of funds owed to Steve Morgan. The United States is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations, and, on that basis, denies the remaining allegations.

6. Admits that Exhibits A and B are attached and are respectively, a copy of a letter from Lonnie Crockett and a copy of a Notice of Levy served by the IRS.

7. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 7 and, on that basis, denies the allegations.

UNITED STATES GOVERNMENT
United States Attorney's Office
Box 32
Boise, Idaho 83707
Telephone: (208) 334-1211

RICHARD R. WARD
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-5867

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF IDAHO

DIVERSIFIED METAL PRODUCTS,
INC.,

Plaintiff,

v.

T-BOW COMPANY TRUST, INTERNAL
REVENUE SERVICE, and STEVE
MORGAN,

Defendants.

The document on which this certificate is affixed is
CERTIFIED
A TRUE, CORRECT, and COMPLETE COPY of the original.
Claimant is holder in due course of original

Debra-Harry Porter 11-8-2002
Signed Date

Convention de La Haye du 5 octobre 1954

Civil No. 93-405-E-EJL

UNITED STATES' ANSWER AND CLAIM

The United States of America, through undersigned counsel hereby responds to the numbered paragraphs of plaintiff's complaint as follows:

1. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and, on that basis, denies the allegations.

Certified to be a true and correct copy of original filed in my office.
Cameron S. Burke, Clerk
United States Courts, District of Idaho
By *[Signature]* 4-20-00
Deputy Dated

2. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 2 and, on that basis, denies the allegations.

3. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 3 and, on that basis, denies the allegations.

4. Denies that the Internal Revenue Service is an agency of the United States Government but admits that the United States of America would be a proper party to this action. Admits that the IRS has served a Notice of Levy on plaintiff for funds owed to defendant Steve Morgan.

5. Admits that the IRS has made a demand on plaintiff for payment of funds owed to Steve Morgan. The United States is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations, and, on that basis, denies the remaining allegations.

6. Admits that Exhibits A and B are attached and are respectively, a copy of a letter from Lonnie Crockett and a copy of a Notice of Levy served by the IRS.

7. The United States is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 7 and, on that basis, denies the allegations.

Internal Revenue Service

Department of the Treasury

Internal Revenue Service Center
Mid-Atlantic Region
Philadelphia, Pa.

P.O. Box 245, Bensalem, Pa 19010

Attachment L

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

[REDACTED]
[REDACTED] BEACRNOOD CT
[REDACTED]

Dear Mrs. Hovetale:

This is in response to your Privacy Act request dated December 12, 1975.

The Internal Revenue Code is not positive law, it is special law. It applies to specific persons in the United States, who choose to make themselves subject to the requirements of the special laws in the Internal Revenue Code by entering into an employment agreement within the U.S. Government.

The law is that income from sources not effectively connected with the conduct of a trade or business within the U.S. Government is not subject to any tax under subtitle "A" of the Internal Revenue Code.

This concludes our response to your request.

Sincerely yours,

Cynthia J. Mills

Cynthia J. Mills
Disclosure Officer

Enclosure

Attachment U

The IRS, besides not being an agency of the Federal Government, verified by prima facie evidence in Attachment S, was also never legally created by Congress. This is more substantial evidence of acting under the color of law, and the IRS therefore has no authority, no officer, such as Sothen, and no jurisdiction over Petitioner as supported by the following case law:

“An act of legislative body is essential to create a public office. At the state level, it is a well acknowledged rule that a duly constituted office of state government must be created either by the state constitution itself or by some legislative act; see *Patton v. Bd. Of Health*, 127 Ca. 388, 393, 59 P. 702, 704 (1899)

"One of the requisites is that the office must be created by the constitution of the state or it must be authorized by some statute."); *First Nat. Bank of Columbus v. State*, 80 Neb. 597, 114 N.W. 772, 773 (1908); *State ex rel. Peyton v. Cunningham*, 39 Mont. 197, 103 P. 497, 498 (1909); *State ex rel. Stage v. Mackie*, 82 Conn. 398, 74 A. 759, 761 (1909); *State ex rel. Key v. Bond*, 94 W.Va. 255, 118 S.E. 276, 279 (1923)

"a position is a public office when it is created by law."); *Coyne v. State*, 22 Ohio App. 462, 153 N.E. 876, 877 (1926)

"Unless the office existed there could be no officer either de facto or de jure. A de facto officer is one invested with an office; but if there is no office with which to invest one, there can be no officer. An office may exist only by duly constituted law." *State v. Quinn*, 35 N.M. 62, 290 P. 786, 787 (1930); *Turner v. State*, 226 Ala. 269, 146 So. 601, 602 (1933); *Oklahoma City v. Century Indemnity Co.*, 178 Okl. 212, 62 P.2d 94, 97 (1936); *State ex rel. Nagle v. Kelsey*, 102 Mont. 8, 55 P.2d 685, 689 (1936); *Stapleton v. Frohmiller*, 53 Ariz. 11, 85 P.2d 49, 51 (1938); *Buchholtz v. Hill*, 178 Md. 280, 13 A.2d 348, 350 (1940); *Krawiec v. Industrial Comm*, 372 Ill. 560, 25 N.E.2d, 27, 29 (1940); *People v. Rapsey*, 16 Cal.2d 636, 107 P.2d 388, 391 (1940); *Industrial Comm v. Arizona State Highway Comm*, 61 Ariz. 59, 145 P.2d 846, 849 (1943); *State ex rel. Brown v. Blew*, 20 Wash.2d 47, 145 P.2d 554, 556 (1944); *Martin v. Smith*, 239 Wis. 314, 1 N.W.2d 163, 172 (1941); *Taylor v. Commonwealth*, 305 Ky 75, 202 S.W.2d 992, 994 (1947); *State el rel. Hamblen v. Yelle*, 29 Wash.2d 68, 185 P.2d 723, 728 (1947); *Morris v. Peters*, 203

Ga. 350, 46 S.E.2d 729, 733 (1948); *Weaver v. North Bergen Tp.*, 10 N.J.Super. 96, 76 A.2d 701 (1950); *Tomaris v. State*, 71 Ariz. 147, 224 P.2d 209, 211 (1950); *Pollack v. Montoya*, 55 N.M. 390, 234 P.2d 336, 338 (1951); *Schaefer v. Superior Court in and & for Santa Barbara County*, 248 P.2d 450, 453 (Cal.App. 1951); *Brusnigham v. State*, 86 Ga.App. 340, 71 S.E.2d 698, 703 (1952); *State ex rel. Mathews v. Murray*, 258 P.2d 982, 984 (Nev. 1953); *Dosker v. Andrus*, 342 Mich. 548, 70 N.W.2d 765, 767 (1955); *Hetrich v. County Comm. Of Anne Arundel County*, 222 Md. 304, 159 A.2d 642, 643 (1960); *Meiland v. Cody*, 359 Mich. 78, 101 N.W.2d 336, 341 (1960); *Jones v. Mills*, 216 Ga. 616, 118 S.E.2d 484, 485 (1961); *State v. Hord*, 264 N.C. 149, 141 S.E.2d 241, 245 (1965); *Planning Bd. Of T.p. Of West Milford v. T.p. Council of T.p.. Of West Milford*, 123 N.J.Super. 135, 301 A.2d 781, 784 (1973); *Vander Linden v. Crews*, 205 N.W.2d 686, 688 (Iowa 1973); *Kirk v. Flournoy*, 36 Cap.App.3d 553, 111 Cap.Rptr. 674, 675 (1974); *Wargo v. Industrial Comm*, 58 Ill.2d 234, 317 N.E.2d 519, 521 (1974); *State v. Bailey*, 220 S.E.2d 432, 435 (W.Va. 1975); *Leek v. Theis*, 217 Kan. 784, 539 P.2d 304, 323 (1975); *Midwest Television, Inc. v. Champaign-Urbana Communications, Inc.*, 37 Ill.App.3d 926, 347 N.E.2d 34, 38 (1976); and *State v. Pickney*, 276 N.W.2d 433, 436 (Iowa 1979).

The same rule applies at the federal level; see *United States v. Germaine*, 99 U.S. 508 (1879); *Norton v. Shelby County*, 118 U.S. 425, 441, 6 S.Ct. 1121 (1886)

"there can be no officer, either de jure or de facto, if there be no office to fill."; *United States v. Mount*, 124 U.S. 303, 8 S.Ct. 505 (1888); *United States v. Smith*, 124 U.S. 525, 8 S.Ct. 595 (1888); *Glavey v. United States*, 182 U.S. 595, 607, 21 S.Ct. 891 (1901)

"The law creates the office, prescribes its duties." *Cochnower v. United States*, 248 U.S. 405, 407, 39 S.Ct. 137 (1919)

"Primarily we may say that the creation of offices and the assignment of their compensation is a legislative function ... And we think the delegation of such function and the extent of its delegation must have clear expression or implication." *Burnap v. United States*, 252 U.S. 512, 516, 40 S.Ct. 374, 376 (1920); *Metcalf & Eddy v. Mitchell*, 269 U.S. 514, 46 S.Ct. 172, 173 (1926); *N.L.R.B. v. Coca-Cola Bottling Co. of Louisville*, 350 U.S. 264, 269, 76 S.Ct. 383 (1956)

" 'Officers' normally means those who hold defined offices. It does not mean the boys in the

back room or other agencies of invisible government, whether in politics or in the trade-union movement." *Crowley v. Southern Ry. Co.*, 139 F. 851, 853 (5th Cir. 1905); *Adams v. Murphy*, 165 F. 304 (8th Cir. 1908); *Scully v. United States*, 193 F. 185, 187 (D.Nev. 1910)

"There can be no offices of the United States, strictly speaking, except those which are created by the Constitution itself, or by an act of Congress: *Commissioner v. Harlan*, 80 F.2d 660, 662 (9th Cir. 1935); *Varden v. Ridings*, 20 F.Supp. 495 (E.D.Ky. 1937); *Annoni v. Blas Nadal's Heirs*, 94 F.2d 513, 515 (1st Cir. 1938); and *Pope v. Commissioner*, 138 F.2d 1006, 1009 (6th Cir. 1943).

Attachment V - IR Code (IRC) is not positive law (See attachment T)

It is a violation of due process to “assume” or “**presume**” that anything is “law” unless it was enacted into positive law and evidence is entered on the record of same. Positive law is the **ONLY** legitimate or admissible evidence that the people ever consented to the enforcement of an enactment, and without such explicit consent, no enactment is enforceable nor may it adversely affect a person’s rights. The Declaration of Independence says that all just powers derive from “consent,” which implies that any compulsion by government absent consent is unjust. The only exception to this rule is the criminal laws, which could not function properly if consent of the criminal was required.

“Presumption,” in fact, is the **OPPOSITE** of “due process,” as the definition of “due process” admits in Black’s Law Dictionary...(See attachment H).

Code Discussion:

There have been three major versions of the Internal Revenue Code since its inception: 1939; 1954, 1986. If you trace the history of the current Internal Revenue Code, you will find that it began with the 1939 code. All revenue laws prior to the 1939 I.R.C. were repealed when the 1939 code was enacted, as evidenced by 53 Stat. 1, Section 4. In addition to repealing all the previous revenue laws, the 1939 code repealed itself!

1939 code: (Supported by 1954 and 1986 Acts);

AN ACT

To consolidate and codify the internal revenue laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States hereinafter codified and set forth as a part of this act under the heading “Internal Revenue Title” are hereby enacted into law.

SEC. 2. CITATION—This act and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as “I. R. C.”

SEC. 3. EFFECTIVE DATE—Except as otherwise provided herein, this act shall take effect on the day following the date of its enactment.

SEC. 4. REPEAL AND SAVINGS PROVISIONS.—(a) The Internal Revenue Title, as hereinafter set forth, is intended to include all general laws of the United States and parts of such laws, relating exclusively to internal revenue, in force on the 2d day of January 1939 (1) of a permanent nature and (2) of a temporary nature if embraced in said Internal Revenue Title. In furtherance of that purpose, all such laws and parts of laws codified herein, to the extent they relate exclusively to internal revenue, are repealed, effective, except as provided in section 5, on the day following the date of the enactment of this act.

(b) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall any office, position, employment, board, or committee, be abolished by such repeal, but the same shall continue under the pertinent provisions of the Internal Revenue Title.

(c) All offenses committed and all penalties or forfeitures incurred under any statute hereby repealed may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed.

(d) All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this act had not been passed

(e) The authority vested in the President of the United States, or in any officer or officers of the Treasury Department, by the law as it existed immediately prior to the enactment of this act,

hereafter to give publicity to tax returns required under any internal revenue law Enforce immediately prior to the enactment of this act or any information therein contained, and to furnish copies thereof and to prescribe the terms and conditions upon which such publicity may be given or such copies furnished, and to make rules and regulations with respect to such publicity, is hereby preserved And the provisions of law authorizing such publicity and prescribing the terms, conditions, limitations, and restrictions upon such publicity and upon the use of the information gained through such publicity and the provisions of law prescribing penalties for unlawful publicity of such returns and for unlawful use of such information are hereby preserved and continued in full force and effect.

SEC. 5. CONTINUANCE OF EXISTING LAW,—Any provision of law in force on the 2d day of January 1939 corresponding to a provision contained in the Internal Revenue Title shall remain in farce until the corresponding provision under such Title takes effect

SEC. 6. ARRANGEMENT, CLASSIFICATION, AND CROSS REFERENCES.— The arrangement and classification of the several provisions a/the Internal Revenue Title have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore, no inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion thereof nor shall any out- line, analysis, cross reference, or descriptive matter relating to the contents a/said Title be given any legal effect

SEC. 7. EFFECT UPON SUBSEQUENT LEGISLATION.—The enactment of this act shall not repeal nor affect any act of Congress passed since the 2nd day of January 1939, and all acts passed since that date shall have full effect as if passed after the enactment of this act; but, so far as such acts vary from, or conflict with, any provision contained in this act, they are to have effect as subsequent statutes, and as repealing any portion of this act inconsistent therewith.

SEC. 8. COPIES AS EVIDENCE OF ORIGINAL—Copies of this act printed at the Government Printing Office and bearing its imprint shall be conclusive evidence of the original Internal Revenue Code in the custody of the Secretary of State.

SEC. 9. PUBLICATION—The said Internal Revenue Code shall be published as a separate part of a volume of the United States Statutes at Large, with an appendix and index, but without

marginal references; the date of enactment, bill number, public and chapter number shall be printed as a headnote.

SEC. 10. INTERNAL REVENUE TITLE.—The Internal Revenue Title, heretofore referred to, and hereby and herein enacted into law, is as follows:.. [Internal Revenue Code of 1939. 53 Stat. 1].

1986 Code

"Of the 50 titles, only 23 have been enacted into positive (statutory) law. These titles are 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 44, 46, and 49. When a title of the Code was enacted into positive law, the text of the title became legal evidence of the law. Titles that have not been enacted into positive law are only prima fade evidence of the law. In that case, the Statutes at Large still govern." [United States Government Printing Office Website].

“Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title I of the Code, the text of those titles is legal evidence of the law contained in those titles. The other titles of the Code are prima facie evidence of the laws contained in those titles. The following titles of the Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18,23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 44, 46, and 49.” [United States House of Representatives Office of the Law Revision Counsel].

Titles in the intro pages to any Title of the United States Code, as officially published by West shows that Title 26, U.S.C., has no asterisk ("*"), thus indicating that Title 26 has NOT been enacted into positive law. As a consequence, the Title as such is only prima facie evidence of the Statutes at Large.

In Title 28 (where it matters most) the statute at IRC 7851(a)(6)(A) states:

"The provisions of subtitle F shall take effect on the day after the date of enactment of this title"

Since Title 26 has not yet been enacted into positive law (i.e., it is still only prima facie and not conclusive evidence of the underlying Statutes at Large), the obvious conclusion is that subtitle F has not yet taken effect. This is crucial, because subtitle F contains ALL the enforcement

provisions in the Internal Revenue Code ("IRC").

Section 4 of the 1939 Internal Revenue Code itself, located in 53 Stat. 1, shows that the code repealed all prior revenue laws as well as itself, and therefore is unenforceable. Also, 1 U.S.C. §204 shows that it is not "law" or "positive law", but is "presumed to be law." Since all presumption (See attachment H) which prejudices Constitutional rights is a violation of due process, then the code cannot be used as a substitute for real positive law evidence.

It is still a matter of federal law that Title 26 and the IRC are NOT one and the same., EVEN IF Title 26 is verbatim identical to the IRC. The one has the force of law, whereas the other is rebuttable solely by reason of the fact that it (Title 26) has NEVER been enacted into positive law.

Those codes within the U.S. code which are "positive law," such as the Internal Revenue Code, are described simply as "prima facie evidence" of law. 1 U.S.C. §204 and the notes thereunder describe the I.R.C. as a "code" or a "title", but NEVER as a "law."

1 U.S.C. §204 Codes and supplements as evidence of laws of United States and District of Columbia; citation of codes and supplements.

In all courts, tribunals, and public offices of the United States, at home or abroad of the District of Columbia, and of each State, Territory, or insular possession of the United States—

(a) United States Code.—

[1] The matters set forth in the edition of the Code of Laws of the United States (defined in 4 U.S.C. 72; (2)) current at any time shall together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included:

[2] Provided however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

The term “prima facie evidence” simply means “presumed to be law until rebutted with substantive evidence.” “Prima facie” means “presumed:”

“Prima facie. 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, 28 N.E.2d 596, 599, 22 O.O. 110. See also Presumption” [Black’s Law Dictionary, Sixth Edition, p. 1189]

It will therefore be observed that title 26 is not an enacted title, either when it was first codified in 1939 or in any enactment since.

The conclusion of this is that the IR Code is NOT positive law, and therefore is “private” or “special” law which cannot force Petitioner into a contract with the Respondent in any form, **(See Attachment T)** unless Petitioner agrees to the contractual arrangements.

Possible Respondent Argument:

FALSE STATEMENT #1: “Everything in the Statutes at Large is ‘positive law’. The IRC was published in the Statutes at Large. Therefore, the I.R.C. MUST be positive law.”

REBUTTAL TO FALSE STATEMENT #1: Not everything in the Statutes at Large is “positive law”, in fact. Both the current Social Security Act and the current Internal Revenue Code (the 1986 code) were published in the Statutes at Large and 1 U.S.C. §204, indicate that NEITHER Title 26 (the I.R.C.) nor Title 42 (the Social Security Act) of the U.S. Code are “positive law.” Therefore, this is simply a false statement. If you would like to see the evidence for yourself.

FALSE STATEMENT #2: “The Statutes at Large, 53 Stat. 1, say the 1939 Internal Revenue Code was ‘enacted.’ Anything that is ‘enacted’ is ‘law’. Therefore, the 1939 I.R.C. and all subsequent versions of it MUST be positive law.”

REBUTTAL TO FALSE STATEMENT #2: A repeal of a statute can be enacted, and it produces no new “law.” Seeing the word “enacted” in the Statutes of Law does not therefore necessarily imply that new “law” was created. In fact, you can go over both the current version of I U.S.C.

§204 and all of its predecessors all the way back to 1939 and you will not find a single instance where the Internal Revenue Code has ever been identified as “positive law.”

FALSE STATEMENT #3: “The Internal Revenue Code does not need to be ‘positive law’ in order to be enforceable. Federal courts and the I.R.S. call it ‘law’ so it must be ‘law’.”

REBUTTAL TO FALSE STATEMENT #3: The federal courts are a foreign jurisdiction with respect to a state national domiciled in his state on land not subject to exclusive federal jurisdiction under Article 1, Section 8, Clause 17 and who has no contracts or fiduciary relationships with the federal government. Such a statement represents an abuse of case law for political rather than legal purposes as a way to deceive people.

Because the Internal Revenue Code has no liability statute under Subtitle A, then the only way a person can become a “taxpayer” is by consenting to abide by the Code. If he consented, then the code becomes “law” for him. This is why even the U.S. Supreme Court itself refers to the income tax as “voluntary” in *Flora v. United States*, 362 U.S. 145 (1960). Consent is the ONLY thing that can produce “law.” The I.R.C. is private law, special law, and contract law that only applies to those who explicitly consent by signing a contract vehicle, such as Forms W-4, an SS-5, or a 1040. Since all of these forms produce an obligation, then all of them are contracts. The obligation cannot exist without signing them, nor can the IRS lawfully or unilaterally assess a person on a 1040 form under 26 U.S.C. §6020(b) who does not first consent.

Nothing in the IR Code or other U.S. Law clearly defines IR Code law as valid, and Petitioner challenges that such law, in Fact, exists as a law, and not simply as “presumed” law.



Provisions of the Internal Revenue Code

Attachment W-1

Sec. 7602. Examination of books and witnesses

(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 employee of such person, or any person having possession, custody, or care of books or 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.

(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.

(c) Notice of contact of third parties. -

- (1) General Notice. - An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.
- (2) Notice of specific contacts. - The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.
- (3) Exceptions. - This subsection shall not apply-
 - (A) to any contact which the taxpayer has authorized,
 - (B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person, or
 - (C) with respect to any pending criminal investigation.

(d) 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 sub paragraph (A)(i).
- (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.

(e) Limitation on examination on unreported income. - The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.

Authority to examine books and witness is also provided under sec. 6420 (e)(2) - Gasoline used on farms: sec. 6421(g)(2) - Gasoline used for certain nonhighway purposes by local transit systems, or sold for certain exempt purposes; and sec. 6427(j)(2) - Fuels not used for taxable purposes.

Sec. 7603. Service of summons

(a) In general - 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 and 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. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty

(b) Service by mail to third-party recordkeepers. -

- (1) In general. - A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.
- (2) Third party record keeper. - For purposes of paragraph (1), the term *third-party recordkeeper* means -
 - (A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));
 - (B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681 a(f)));
 - (C) Any person extending credit through the use of credit cards or similar devices;
 - (D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));
 - (E) any attorney;
 - (F) any accountant;
 - (G) any barter exchange (as defined in section 6045(c)(3));
 - (H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof;
 - (I) any enrolled agent; and
 - (J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)). Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which source code relates.

Sec. 7604. Enforcement of summons

(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.

(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 Commissioner¹ 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 commissioner¹ 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 Commissioner¹ 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.

¹Or United States magistrate, pursuant to P L. 90-578.

Sec. 7605. Time and place of examination

(a) Time and place. - The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421 (g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2), 6421 (g)(2) or 6427(j)(2), the date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

Sec. 7610. Fees and costs for witnesses

(a) In general. - The Secretary shall by regulations establish the rates and conditions under which payment may be made of -

- (1) fees and mileage to persons who are summoned to appear before the Secretary, and
- (2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

(b) Exceptions. - No payment may be made under paragraph (2) of subsection (a) if -

- (1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or
- (2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

(c) Summons to which section applies. - This section applies with respect to any summons authorized under section 6420(e)(2), 6421 (g)(2), 6427(j)(2), or 7602.

Sec. 7210. Failure to obey summons

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda or other papers, as required under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), 7602, 7603, and 7604(b), neglects to appear or to produce such books, accounts, records memoranda, or other papers, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.

Sec. 7609. Special procedures for third-party summons**(a) Notice-**

(1) In general. - If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.

(2) Sufficiency of notice. - Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

(3) Nature of summons. - Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

(b) Right to intervene; right to proceeding to quash. -

(1) Intervention. - Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) Proceeding to quash. -

(A) In general. - Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

(B) Requirement of notice to person summoned and to Secretary. - If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

(C) Intervention, etc. - Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).

(c) Summons to which section applies. -

(1) In general. - Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

(2) Exceptions. - This section shall not apply to any summons

(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person;

(B) issued to determine whether or not records of the business transaction or affairs of an identified person have been made or kept;

(C) issued solely to determine the identify of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A);

(D) issued in aid of the collection of-

(i) an assessment made or a judgment rendered against the person with respect to whose liability the summons is issued, or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

(E) - (i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws, and

(ii) served on a person who is not a third-party recordkeeper (as defined in section 7603(b)), or

(F) described in subsection (f) or (g).

(3) Records. - For purposes of this section, the term records includes books, papers, and other data.

(d) Restriction on examination of records. - No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made -

(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash.

(e) Suspension of Statute of Limitations. -

(1) Subsection (b) action. - If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

(2) Suspension after 6 months of service of summons. - In the absence of the resolution of the summoned party's response to the summons, the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued (other than a person taking action as provided in subsection (b)) shall be suspended for the period-

(A) beginning on the date which is 6 months after the service of such summons, and

(B) ending with the final resolution of such response.

(f) Additional requirements in the case of a John Doe summons. -

Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that -

(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

(3) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

(g) Special exception for certain summonses. -

A summons is described in this subsection if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(h) Jurisdiction of district court; etc. -

(1) Jurisdiction. - The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceedings brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

(2) Special rule for proceedings under subsections (f) and (g). - The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

(i) Duty of summoned party. -

(1) Recordkeeper must assemble records and be prepared to produce records. - On receipt of a summons to which this section applies for the production of records, the summoned party shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

(2) Secretary may give summoned party certificate. - The Secretary may issue a certificate to the summoned party that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

(3) Protection for summoned party who discloses. - Any summoned party, or agent or employee thereof, making a disclosure of records of testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.

(4) Notice of suspension of statute of limitations in the case of a John Doe summons. - In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the summoned party shall provide notice of such suspension to any person described in subsection (f).

(j) Use of summons not required. -

Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.