

"Freedom Now"
Radio Show
Thursdays
4-6 p.m. PAC
KLAV1230AM



Consultations
Available By
Appointment
and at:
900.786.7477

IRWIN SCHIFF

The Nation's Leading Authority on the income "tax".

Upon receiving your "NEW LIEN & LEVY" package you'll find that the floppy disc that we send along is from the old Lien & Levy package. We have discovered new material since this disc was made so you can add whatever suits your situation. Since the disc is in Microsoft word editing it to suit will be a fairly simple task to add any of the new material that will help.

Thank you for your patronage and good luck. We hope this helps.

In 1998, P.L. 105-206, Sec. 3401(b), added Code Sec. 6330, effective for collection actions initiated after the date which is 180 days after 7/22/98.

PART II.—LEVY

Sec.

6331. Levy and distraint.
 6332. Surrender of property subject to levy.
 6333. Production of books.
 6334. Property exempt from levy.
 6335. Sale of seized property.
 6336. Sale of perishable goods.
 6337. Redemption of property.
 6338. Certificate of sale; deed of real property.
 6339. Legal effect of certificate of sale of personal property and deed of real property.
 6340. Records of sale.
 6341. Expense of levy and sale.
 6342. Application of proceeds of levy.
 6343. Authority to release levy and return property.
 6344. Cross references.

In 1998, P.L. HR2676, Sec. 3401(b), redesignated the Code Sections in Subchapter D as Part II of Subchapter D.

In 1966, P.L. 89-719, added "and return property" in item 6343.

Sec. 6331. Levy and distraint.**(a) Authority of Secretary.**

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property.

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures.

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy.

(1) **In general.** Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) **30-day requirement.** The notice required under paragraph (1) shall be—

(A) given in person,

(B) left at the dwelling or usual place of business of such person, or

(C) sent by certified or registered mail to such person's last known address,

no less than 30 days before the day of the levy.

(3) **Jeopardy.** Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) **Information included with notice.** The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

(A) the provisions of this title relating to levy and sale of property,

(B) the procedures applicable to the levy and sale of property under this title,

(C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

(E) the provisions of this title relating to redemption of property and release of liens on property, and

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title.

(e) Continuing levy on salary and wages.

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy.

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons.

(1) **In general.** No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) **No application in case of jeopardy.** This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Continuing levy on certain payments.

(1) **In general.** If the Secretary approves a levy under this subsection, the effect of such levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) **Specified payment.** For the purposes of paragraph (1), the term "specified payment" means—

(A) any Federal payment other than which eligibility is based on the both of a payee,

(B) any payment described in paragraph (11) of section 6334(a), and

(C) any annuity or pension payable under the Retirement Act or benefit under the Employment Insurance Act.

(3) **Increase in levy for certain property.** The term "increase in levy for certain property" shall be applied by substituting "percent" in the case of any specified vendor of goods or services sold to the Government.

(i) No levy during pendency of proceeding under divisible tax.

(1) **In general.** No levy may be made on the property or rights to property with respect to any unpaid divisible tax if a proceeding under paragraph (1) is pending in a proper Federal trial court for the collection of such divisible tax which was commenced by the taxpayer.

(A) the decision in such proceeding with respect to such unpaid tax,

(B) such person would be considered as contesting such unpaid tax by such proceeding.

(2) **Divisible tax.** For purposes of this subsection, "divisible tax" means—

(A) any tax imposed by subtitle A,

(B) the penalty imposed by section 6701.

(3) Exceptions.

(A) Certain unpaid taxes. This subsection shall not apply to any unpaid tax with respect to which the taxpayer files a written waiver of the right to a hearing with respect to such tax.

(i) the taxpayer files a written waiver of the right to a hearing with respect to such tax,

(ii) the Secretary finds that the collection of such tax is in jeopardy.

(B) Certain levies. This subsection shall not apply to any levy which was first made on the property or rights to property of the taxpayer after the commencement of such proceeding.

(4) **Limitation on collection after commencement of proceeding.**

(A) Limitation on collection. The collection of any unpaid tax shall be begun by the taxpayer after the commencement of a proceeding under paragraph (1) shall not apply to—

(i) any counterclaim in a proceeding under paragraph (1), or

(ii) any proceeding relating to such tax.

(B) Authority to enjoin. Section 7421(a), a levy or collection of tax under this subsection may be enjoined if a proceeding under paragraph (1) is pending.

(5) **Suspension of statute of limitations.** The period of limitations under section 6501 shall be suspended for the period during which a proceeding is pending under this subsection.

Handbook 1.16.4
Identification Media
Chapter 3
Pocket Commissions

NOTE:

Log on to this website for more information on Pocket Commissions:
http://www.irs.ustreas.gov/prod/bus_info/tax_pro/firm-part/part01/31791.html#ss1

* Exhibit [1.16.4] 3-5 Pocket Commission Inserts

[1.16.4] 3.1 (02-19-1999)

Authorized Use

1. Pocket commissions will be issued only to those employees who are required to present proof of their authority in the performance of their official duties. With the exception of their use by Inspection, pocket commissions are primarily intended to identify Service personnel to the public when dealing with tax matters. They will not be issued to employees merely to identify themselves for transaction of routine business. Pocket commissions will only be displayed as prescribed in 3.2 of this Chapter. **Misuse of pocket commissions is a violation of the Rules of Conduct and may be a violation of Federal Law (18 U.S.C. 499).**
2. Pocket commissions are categorized as either "enforcement" or "nonenforcement." Enforcement commissions conform to the format prescribed by the Department of Treasury for Treasury Law Enforcement Officers and may be issued only to individuals in the 1811 series, Special Agents (Criminal Investigation) and Inspectors (Internal Security). Nonenforcement pocket commissions are those issued to all *other* authorized employees.

[1.16.4] 3.2 (02-19-1999)

Description

1. The enforcement pocket commission consists of a black leather combination shield/pocket commission case with cut-out on the outside for the enforcement shield. Inserted inside are laminated upper and lower pocket commission inserts. The upper insert contains the name of the employee. The lower insert contains the title, color photograph, and signature of the employee, certification of authority, serial number, and handwritten signature of the authorizing offices. The date of issue should be placed above the serial number.
2. The non-enforcement pocket commission consists of a red leather folder, embossed in gold on the outside with the Internal Revenue seal, the words "United States Treasury Department, Internal Revenue Service" and a straight line border. Affixed to the inside are laminated upper and lower pocket commission inserts. The upper insert contains the photograph and signature of the employee. The lower insert contains the name and title of the employee, date of issue, serial number, certification of authority of the employee, and the handwritten signature of the authorizing official.
3. **In the upper right hand corner of each commission is a line for the office code. This should be the geographic code of the issuing office (the same code used on ID cards). Each commission will have a serial number with the prefix IR and the suffix "E" on enforcement commissions and "A" on nonenforcement commissions.**

Clear, plastic covers may be used to protect the commission from wear, however, other adornments are not authorized.

US Code as of: 01/02/01

Sec. 499. Military, naval, or official passes

US Code as of: 01/02/01

Sec. 499. Military, naval, or official passes

4. **Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or willfully allows any other person to have or use any such pass or permit, issued for his use alone, shall be fined under this title or imprisoned not more than five years, or both.**

HEADNOTES

Classified to U.S. Supreme Court Digest, Annotated

FEDERAL CROP INSURANCE CORPORATION

v.

A. A. MERRILL and N. D. Merrill, Co-partners, Doing Business under the Firm Name and Style of Merrill Bros.

(332 US 380-388.)

United States, § 69 — contracts — liability — tests.

1. The fact that the government has taken over a business or is engaging in competition with private ventures does not subject it to the same tests of liability as in the case of private individuals.

Insurance, § 20 — by governmental agency — liability for acts of agents.

2. The rules of law whereby private insurance companies are rendered liable for the acts of their agents are not bodily applicable to the Federal Crop Insurance Corporation unless Congress has so provided.

[See annotation reference, 1.]

Corporations, § 233; United States, § 25 — governmental agencies.

3. The government may carry on its operations through convenient executive agencies or through corporate forms especially created for defined ends.

United States, § 87 — powers of agent — duty to ascertain.

4. Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of the limitations upon his authority.

Insurance, § 164 — estoppel by agent's knowledge of facts — Federal Crop Insurance Corporation.

5. The Federal Crop Insurance Corporation is not bound by assurance given to a farmer by its local agents that his crop was insurable, where a valid regulation published in the Federal Register but not in fact known to the farmer or to the local agents precluded coverage. [Four Justices dissented.] ...

Those dealing with an officer or agent of the United States must be held to have had notice of the limitations upon his authority. Sutton v. United States, 256 US 575, 579, 65 L ed 1099, 1102, 41 S Ct 563, 19 ALR 403; Wilber Nat. Bank v. United States, 294 US 120, 123, 124, 79 L ed 798, 801, 802, 55 S Ct 362.

Men must turn square corners when they deal with the government. Rock Island, A. & L. R. Co. v. United States, 254 US 141, 143, 65 L ed 188, 189, 41 S Ct 55 (by Mr. Justice Holmes).

Respondents were in duty bound to read the Regulations. Frier v. Federal Crop Ins. Corp. (CCA5th Tex) 152 F 2d 149, 150.

In any event, their publication in the Federal Register was sufficient, under the Federal Register Act, to afford notice to all affected persons. Yakus v. United States, 321 US 414, 435, 88 L ed 834, 854, 64 S Ct 660. Cf. Griswold, Government in Ignorance of the Law, 48 Harv L Rev 198.

As Argued By The Solicitor General

On Behalf Of The United States of America

MONEY NEWS

JANUARY 2004

United Methodist
Federal Credit Union

NEW UMEFCU Web Site Coming Soon!

The new UMEFCU website has been redesigned. You'll love the new look and the ease of use. The new site is coming in January 2004. We're making our website more user-friendly and easier to navigate. We're adding new features and services to our website. We're making our website more secure and more reliable. We're making our website more accessible to all our members. We're making our website more fun to use. We're making our website more helpful. We're making our website more convenient. We're making our website more efficient. We're making our website more effective. We're making our website more successful. We're making our website more profitable. We're making our website more valuable. We're making our website more important. We're making our website more essential. We're making our website more indispensable. We're making our website more irreplaceable. We're making our website more priceless. We're making our website more invaluable. We're making our website more priceless. We're making our website more invaluable.

• Log on to our new Online Home Banking page from the Home Page
• Get a glimpse of our services and features on the Home Page
• Click on all our new services and features from the Home Page
• Click on our special Church Corporate rates
• Click on our NEW Educational Corner that changes with the Internal Revenue Code
• Click on our NEW Massachusetts Minute Informational video
• Click on our new Direct Deposit feature
• Click on our new coming up
• Plus much more

• Click on our NEW Educational Corner that changes with the Internal Revenue Code
• Click on our NEW Massachusetts Minute Informational video
• Click on our new Direct Deposit feature
• Click on our new coming up
• Plus much more

Bill Payment Service is Now Here

You've asked for it and now it's here. Starting in January 2004, United Methodist FCU is adding a new feature to our already popular eBranch Online Home Banking system. Here's a brief look at what our new Bill Payment Service can help you do:

- Pay bills electronically – Most utilities, credit card companies, and other merchants are already set up for this.
- Pay bills by check and mail – Ideal for your gardener, your nanny, or your pool man.*
- Set up recurring payments that you know are the same every month – Such as your dues to a newspaper subscription, the payment to the gym, etc.

Take a few moments to sign up for the service and you will be notified via email with your user id and password (usually takes 1-2 business days). Then set up all of your Bill payment accounts (you'll need your most current statements i.e. utilities, credit cards, etc.) and you're ready to go. Once you've set up the bills you'd like to pay, just click and make those payments from wherever you have access to the internet, whenever you'd like – 24 hours a day, 7 days a week. No more buying stamps or sealing envelope after envelope. Make your life simpler with our NEW Bill Payment Service.

Make the Switch and Save!

You say you've already set up a bill payment service elsewhere? You're probably all set, right? We'd like to ask you to compare. You may be making a monthly payment for your current bill payment service and we'd like to offer our service to you for FREE**. You can't go wrong making the switch to our new Bill Payment service and now's the time to act. Setting up your payments is easy and after you take a few moments to set up everything, you're all ready to go. Still not sure? Take a demo tour of our new service and find out for yourself how easy it is using United Methodist FCU's new Bill Payment service. Log onto our web site at www.umfcu.org and demo the product. Start making at least this part of your life simpler today!

* Must be a Post Office verified address in the United States, Puerto Rico, or the Virgin Islands.
** Sign up between January 15 and April 15, 2004 and the first 6 months is FREE, plus we will waive the sign up fee. After this period, a \$3.00 sign up fee will be charged. Also thereafter, a monthly fee of \$4.95 per month and \$0.50 per transaction (after 12 complimentary transactions) will occur. If you maintain an average monthly balance in your share draft account of \$300.00, have direct deposit, or a loan with United Methodist FCU, the service will remain FREE for the subsequent month thereafter, and will remain FREE from month to month as long as you maintain the minimum requirements for FREE Bill Payment service.

Educational Corner

Every so often we are asked how we treat an Internal Revenue Service "Notice of Levy." As instructed on the reverse of the Notice of Levy from the IRS and in the Internal Revenue Code, Sec. 6332 (c) we will surrender any deposits, including interest, subject to an attachment or execution under judicial process. This means that upon receipt of a duly executed court document, i.e., writ of attachment or garnishment signed by an officer of the court, we will surrender any funds after 21 days of having received such a judicial process levy. An IRS Notice of Levy is an administrative process, not a judicial process.

Please check our website from time to time to get further educational tidbits under "Educational Corner"

EXHIBIT F

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

August Term, 2004

(Argued: December 13, 2004

Decided: January 25, 2005)

Docket No. 04-0196-cv

ROBERT L. SCHULZ,

Plaintiff-Appellant,

—v.—

INTERNAL REVENUE SERVICE and ANTHONY ROUNDTREE,

Defendants-Appellees.

Before :

FEINBERG, STRAUB, and RAGGI, *Circuit Judges.*

Appeal from a judgment in the United States District Court for the Northern District of New York (David N. Hurd, *Judge*), dismissing for lack of subject matter jurisdiction appellant's motions to quash administrative summonses served upon him by the Internal Revenue Service.

AFFIRMED.

1
2 ROBERT L. SCHULZ, *pro se*, Queensbury, N.Y.

3
4 ROBERT P. STORCH, Assistant United States Attorney for the Northern District of New York
5 (Glenn T. Suddaby, United States Attorney, on the brief), Albany, N.Y., *for Defendants-*
6 *Appellees*.

7
8
9
10 PER CURIAM:

11 In May and June 2003 defendant-appellee, the Internal Revenue Service (“IRS”), served
12 plaintiff-appellant, Robert L. Schulz, with a series of administrative summonses seeking
13 testimony and documents in connection with an IRS investigation of Schulz. Schulz filed in the
14 United States District Court for the Northern District of New York motions to quash those
15 summonses. In an order dated October 16, 2003, Magistrate Judge David R. Homer dismissed
16 Schulz’s motions for lack of subject matter jurisdiction, finding that, because the IRS had not
17 commenced a proceeding to enforce the summonses, a procedure described in 26 U.S.C. §7604,
18 Schulz was under no threat of consequence for refusal to comply and, until such time as the IRS
19 chose to pursue compulsion in a United States district court, no case or controversy existed.
20 Magistrate Judge Homer further found that if the IRS did attempt to compel Schulz to produce
21 testimony and documents named in the summonses, the enforcement procedure described in
22 §7604 would provide Schulz with adequate opportunity to contest the requests.

23 Schulz filed an appeal and objection in the District Court. By order dated December 3,
24 2003, the District Court denied those objections and dismissed the appeal. Schulz now appeals
25 from that final decision of the District Court. We assert jurisdiction pursuant to 28 U.S.C. §1291
26 and affirm.

Schulz v. IRS, 04-0196

1 It is well-established that “Article III of the Constitution confines the jurisdiction of the
2 federal courts to actual ‘Cases’ and ‘Controversies.’” *Clinton v. City of New York*, 524 U.S. 417,
3 429 (1998) (citations omitted). To demonstrate the standing necessary to invoke the jurisdiction
4 of the federal courts Schulz must “allege personal injury fairly traceable to the defendant’s
5 allegedly unlawful conduct and likely to be redressed by the requested relief.” *Allen v. Wright*,
6 468 U.S. 737, 751 (1984). This injury may not be speculative or abstract, but must be distinct
7 and definite. *Id.*

8 In its present posture, Schulz’s motion does not satisfy this requirement. As the Supreme
9 Court pointed out in *United States v. Bisceglia*, IRS summonses have no force or effect unless
10 the Service seeks to enforce them through a §7604 proceeding. 420 U.S. 141, 146 (1975),
11 *partially superseded by* 26 U.S.C. §7609, as stated in *In re Does*, 688 F.2d 144, 148 (2d Cir.
12 1982). The IRS has not initiated any enforcement procedure against Schulz and, therefore, what
13 amount to requests do not threaten any injury to Schulz. Of course, if the IRS should, at a later
14 time, seek to enforce these summonses, then the procedures set forth in §7604(b) will afford
15 Schulz ample opportunity to seek protection from the federal courts. *See Bisceglia*, 420 U.S. at
16 146; *see also Reisman v. Caplin*, 375 U.S. 440, 447-50 (1964) (denying injunctive relief from
17 IRS summonses because §7604(b) “provides full opportunity for judicial review before any
18 coercive sanctions may be imposed”); *United States v. Tiffany Fine Arts, Inc.*, 718 F.2d 7, 11 (2d
19 Cir. 1983) (“[*Bisceglia*] reasoned that by creating the enforcement proceeding mechanism
20 Congress had intended to place the federal courts between the IRS and the person summoned,
21 and that the courts could contain [the threat of IRS overreaching] by narrowing the scope of or

1 refusing to enforce abusive summonses.”).

2 We realize that our holding today stands in direct contradiction to our previous decisions
3 in *Application of Colton*, 291 F.2d 487, 491 (2d Cir. 1961), and *In re Turner*, 309 F.2d 69, 71 (2d
4 Cir. 1962). While reversal of our prior precedent is never a matter we regard lightly, we take no
5 small solace in Judge Friendly’s discussion of *Colton* and *Turner* in *United States v. Kulukundis*,
6 329 F.2d 197 (2d Cir. 1964). There, Judge Friendly, who authored both *Colton* and *Turner*,
7 points out that *Reisman* “seems to destroy the basis underlying decisions of this court which
8 authorized applications to vacate [an IRS] summons (and appeals from their denial) in advance
9 of any judicial proceeding by the Government for their enforcement.” *Id.* at 199. In light of this,
10 we view ourselves today as completing a task begun forty years ago and hold that, absent an
11 effort to seek enforcement through a federal court, IRS summonses apply no force to taxpayers,
12 and no consequence whatever can befall a taxpayer who refuses, ignores, or otherwise does not
13 comply with an IRS summons until that summons is backed by a federal court order. In addition,
14 we hold that if the IRS seeks enforcement of a summons through the courts, those subject to the
15 proposed order must be given a reasonable opportunity to contest the government’s request. If a
16 court grants a government request for an order of enforcement then we hold, consistent with 26
17 U.S.C. §7604 and *Reisman*, that any individual subject to that order must be given a reasonable
18 opportunity to comply and cannot be held in contempt, arrested, detained, or otherwise punished
19 for refusing to comply with the original IRS summons, no matter the taxpayer’s reasons or lack
20 of reasons for so refusing. See *Reisman*, 375 U.S. at 446 (“[O]nly a refusal to comply with an
21 order of the district judge subjects the witness to contempt proceedings.”). Any lesser

Schulz v. IRS, 04-0196

1 protections would expose taxpayers to consequences derived directly from IRS summonses,
2 raising an immediate controversy upon their issuance. Holding as we have, however, allows us
3 to hold further that issuance of an IRS summons creates no Article III controversy and, therefore,
4 federal courts do not have jurisdiction over motions to quash IRS summonses in the absence of
5 some effort by the IRS to seek court enforcement of the summons.

6 Consistent with these holdings, we find that, on the facts before us, no force has been
7 applied to Schulz and his request for action is premature. The decision of the District Court
8 dismissing Schulz's motions for want of subject matter jurisdiction is AFFIRMED.¹

¹ This opinion has been circulated to the active members of this Court prior to filing.

Summons



Department of the Treasury
Internal Revenue Service

In the matter of _____

Internal Revenue District Southwest

Periods U.S. INDIVIDUAL INCOME TAX RETURN FOR
CALENDAR YEAR

The Commissioner of Internal Revenue

To _____

At _____

You are hereby summoned and required to appear before _____ or his/her designee, 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.

All documents in your possession and control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for this year and the preceding year regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

"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 Official Serving the Summons

Title

Business address and telephone number of Internal Revenue Service officer named above:

750 West Oakey, Las Vegas, Nv 89102

Place and time for appearance:

at 4750 West Oakey Mail Stop 5028, Las Vegas, Nv 89102

on the _____ day of _____ 19____ at _____ o'clock

Issued under authority of the Internal Revenue Code this _____ day of _____, 19____

Signature of Issuing Officer

Revenue Officer
Title

Signature of Approving Officer (if applicable)

Group Manager
Title

Letter to third party accompanied by Affidavit and third party letter to IRS

_____, 200__

Attn: Legal Counsel

RE: Notice of Levy dated _____ received from IRS

I am writing in connection with the above notice of levy you received from Revenue Agent _____. I have enclosed with this letter my Affidavit attesting to the fact that Revenue Agent _____ is without delegated authority to send out such a notice.

Attached to my Affidavit is Internal Revenue Code Section 6331, the Code Section pursuant to which the notice of _____, 200__ was sent. As you can see, that statute only provides that "It shall be lawful for the secretary to collect such tax." Clearly, Section 6331 does not authorize anyone but the Secretary of the Treasury or his delegate to collect taxes pursuant to Code Section 6331; and this letter is to put you on notice that Revenue Agent _____ has no such delegation of authority.

In addition please read the attached excerpt, par. 3.1 of IRS manual 1.16.4(2/19/1999) which explains the existence and the difference between IRS "enforcement pocket commissions" and "non-enforcement pocket commissions". This is to put you ON NOTICE that Revenue Agent _____ does not have an "enforcement pocket commission," therefore, he has no authority to seek to collect the income taxes I allegedly owe BY FORCE. Before turning over any of my money based on the Notice of Levy you received from him - you are duty bound to ask him to produce his "pocket commission" which must have an "E" following the serial number.

Attached to my affidavit is a Delegation Order that IRS Special Agents have authorizing them to "seize personal... used in violation of the Internal Revenue laws..." However, Mr. _____ is not a Special Agent, he would need (in addition to his "enforcement pocket commission") a Delegation Order authorizing him to "seize personal property... in payment of income taxes." If he can not produce both documents, you would be NEGLIGENT if you turned over any money in response to an unauthorized Notice of Levy.

Remember, a notice of levy is not a court order and _____ will respond to it at it's own legal peril. You will be liable to me for breach of contract if you turn over my funds to someone who never had any legal authority to compel payment in this manner.

I have also prepared and attached to this letter a letter that you can send to Revenue Agent _____ asking him to produce the documents described above. If _____ turns over my money to the IRS without getting these documents which would establish Revenue Agent _____'s authority to send out the Notice of Levy at issue, it will be acting irresponsibly and negligently.

As is also noted in paragraph 3 of my Affidavit, since no "notice of seizure" pursuant to Code Section 6502 (b) was never given to the bank, no "levy" is involved.

I will be prepared to answer any and all questions you might have on this matter.

Sincerely Yours,

EXHIBIT I

AFFIDAVIT

BE IT ACKNOWLEDGED, THAT I _____ of _____
the undersigned deponent, being of legal age, do hereby depose and say under oath as follows:

1. Revenue Officer, _____, who sent out the notice of Levy dated _____ to _____ was never authorized by the Secretary of the Treasury, pursuant to 26USC6331(a), to send out such a notice.
2. Revenue Officer, _____, will not be able to produce a Delegation Order from the Secretary of the Treasury (see sample delegation order attached) authorizing him to seize property in payment of income taxes.
3. The Notice of Levy received by _____ is not a levy since no notice of seizure pursuant to 26USC6502(b) (see statute and notice of seizure attached) was ever served upon _____; therefore no "levy", in this instance was ever "made" as defined and identified in that statute.
4. Revenue Agent _____ does not have an "enforcement pocket commission," pursuant to par. 3:1 of IRS Manual 1.16.4(2/19/1999) (attached) which explains the existence and difference between IRS "enforcement pocket commissions" and "non-enforcement pocket commissions." Therefore, Revenue Agent _____ has no authority to seek to collect the income taxes I allegedly owe BY FORCE.

I affirm that the foregoing is true and correct to the best of my knowledge and belief.

Witness my hand under penalties of perjury this _____ day of _____
200__.

STATE OF _____
COUNTY OF _____

On _____, 200__ before me, _____ personally appeared, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same on the instrument the person, or the entity upon behalf of which I WITNESS by my hand and official seal.

(notary)

Statutory Proof

Federal Tax Liens are Illegal

by Irwin Schiff

Mr. Schiff is one of the first researchers to critically analyze the IRS and the income tax laws. Over the past fifteen years, he's written several books, appeared on numerous TV and radio interview programs, and helped lay the foundation for the modern "untax" movement.

THE LAW?

All IRS tax liens filed and recorded throughout the USA have been recorded in violation of both federal and state law. (Hopefully, paralegals may be able to use the information in this article to earn some money removing federal tax liens. How much will it be worth to someone to have a \$200,000 federal tax lien removed?)

Here's proof:

First, all such "tax" liens are illegal because there is *no law* making anyone "liable" for income taxes or requiring that such a tax "be paid." Therefore there is really no such thing as an income "tax," because a tax is a *mandatory* exaction. Therefore, since there is no law making the payment of an income tax mandatory, there is no such thing as a lawful, *mandatory* income "tax."

Further, whatever constitutes "income" is not even defined in the Internal Revenue Code (See *US v. Ballard*, 535 F.2d 400, 404) — so how can there be an "income" tax? However, the Supreme Court defined "income" as being a *corporate profit* (See *Merchant's Loan & Trust Company V. Smetanka*, 255 US 509, 518, 519). Therefore, the so called "income tax" is, if anything, a "profits" tax, not an "income" tax.¹

Since only *corporations* can, 1) have any "income" subject to an "income" tax, and 2) since no law makes any *individual* "liable" to pay such a tax, no IRS lien on a private individual (based on an alleged "income" tax) can possibly be legitimate. Nevertheless, such fundamental considerations are lost (or ignored) on a corrupt federal judiciary, so we have to rely on the kind of procedural argument that follows.

PROCEDURE

All so-called IRS "liens" are fraudulent to begin with since they only claim to be "Notice(s) of Lien(s)," not "Liens" themselves (see Exhibit A). However, they are treated by all county recorders as if they were actual "liens", even

though the documents themselves *make no such claim*. (This is another example of the many fraudulent documents the IRS uses to exact a "tax" in violation of law.)

However, it is solely within the province of *each state* to determine and legislate the basis upon which liens (including federal tax liens) will be allowed to be recorded in that state. Thirty-five states have adopted the "Uniform Federal Lien Registration Act" (which also identifies the state statutes where these provisions can be found)⁵.

In New York, the relevant State statutes contains the following provision:

"Section 244. Execution of notices and certificates; Certification by the secretary of the treasury of the United States or his delegate of notices of liens or certificates or notices affecting such liens entitles them to be filed. No other attestation, certification or acknowledgment is necessary."

All states that adopted the "Uniform Federal Lien Registration Act" employ language similar to that of the New York statute.² Notice that the New York statute provides that "Certification by the secretary of the Treasury of the United States or his delegate of

notices of liens . . . entitles them to be filed." Note that no such "Certification" appears anywhere on the "lien" (Exhibit A) recorded against me.

Therefore, pursuant to New York law, that "lien" WAS NOT "ENTITLED...TO BE FILED."

All the "lien" says is that "notice is given that . . ." but there is no "certification" that the claims it makes are true. Federal judgment liens, on the other hand, are certified, but not these IRS liens because all the claims made in these "liens" are false!

Further, the IRS "lien" is not signed "by the Secretary of the Treasury of the United States" or "his delegate." My lien was signed by M. Ransg (?) "for L. Allen" who is identified as being a "Revenue Officer." Apart from the cavalier manner in which it was signed and the obvious violation of N.Y. State law, revenue officers can have no delegated authority to execute documents with respect to income taxes.³

Section 7608 of the Internal Revenue Code (26 USC) concerns "Authority of internal revenue enforcement officers." Paragraph (a) of that statute deals only with *subtle E taxes* which are identified as taxes on "liquor, tobacco, and firearms." Paragraph (a) provides that with respect to those taxes "Any (IRS) agent . . . by whatever term designated whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of Subtitle E . . ." is authorized to: 1. carry firearms, (2) issue summonses, (3) make arrests, and (4) make seizures of property. Therefore, Messrs. Ransg and Allen, being Revenue Officers, can be authorized under this section to make "seizures of property," only with respect to liquor, tobacco and firearms taxes.

However, paragraph (b) deals with the enforcement "for all taxes other than subtitle E taxes" -- which includes income "taxes" (a subtitle A "tax"). Notice that with respect to this "tax" only "criminal investigator(s) of the Intelligence

E2 F

Form 668 (7) 147 Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien Under Internal Revenue Laws

For Optional Use by Recording Office

District: Manhattan, NY Serial Number: 13326284E

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, notice is given that taxes (including interest and penalties) have been assessed against the following named taxpayer. Demand for payment of this liability has been made, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer: IRWIN SCHIFF

Residence: 244 E 25TH ST APT 2 NEW YORK, NY 10010-2423

IMPORTANT RELEASE INFORMATION: With respect to each assessment listed below, unless notice of lien is ruled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Paying (e)	Unpaid Balance of Assessment (f)
10-40	12/31/80	047-16-2481	02/02/81	02/07/81	20543.00
10-40	12/31/81	047-16-2481	02/02/81	02/07/81	0434.00
10-40	12/31/82	047-16-2481	02/02/81	02/07/81	14247.00
10-40	12/31/83	047-16-2481	02/02/81	02/07/81	24127.00
10-40	12/31/84	047-16-2481	02/02/81	02/07/81	7327.00
10-40	12/31/85	047-16-2481	02/02/81	02/07/81	778.00

Place of Filing: Register Office New York County New York, NY 10007 Total \$ 218558.00

This notice was prepared and signed at Manhattan, NY, on the 20th day of August 82.

Signature: M. Ransg for L. Allen Title: Revenue Officer 13-01-1411

(Note: Certificate of officer authorized to take acknowledgments is not essential to the validity of notice of Federal tax lien Rev. Rul 71-466, 1971-2 CB 409)

SEP 3 1982 92F 086991

Division or of the Internal Security Division" of the IRS (commonly known as Special Agents), are authorized to perform such acts - and Revenue Officers Ransg and Allen do not fall into this category. Consequently, neither of them can produce a delegation order authorizing them to place liens on property with respect to income taxes as required by state law. Thus this lien filed against me in the State of New York was recorded in violation of both State and Federal law.

TRICK OR TREAT?

Notice, that in order to further trick county recorders into recording these fraudulent "liens" the IRS appends to the bottom of the "lien" the following statement:

"(NOTE: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Federal Tax lien Rev. Rule 71-466, 1971-2CB 409)."

However, no proof is ever provided to county recorders that the IRS agents who sign these "liens" are "officers authorized by law to take acknowledgments" with respect to income taxes. In addition, it's obvious that no IRS Ruling can supersede and wipe out state law. Your county recorder took an oath to uphold state law, not Internal Revenue rulings. And if Federal agencies can issue "rulings," abrogating state laws and oaths designed to control their activities (when such activities fall exclusively within the purview of state law), what purpose would

such state laws serve? (This shows the fraudulent lengths to which the IRS goes, to extract this fraudulent "tax.")

The "lien" also claims that "Demand for payment of this liability has been made." As acknowledged in the "lien" and pursuant to Code Sections 6321, 6322 and 6323, both conditions (a "demand" for payment and a tax "liability") are requirements that must precede the filing of all IRS liens. However as previously stated, there is no provision of the Internal Revenue Code that makes anyone "liable" for income taxes and certainly not for a "1040" tax. (The "lien's" reference to a "1040" tax, and not to an income tax is yet another example of the fraudulent character of these "liens."⁴ In addition neither I, nor anyone else ever receives the statutory "demand" for payment (as documented and explained in pages 100 - 104 of *The Federal Mafia*), so this claim is also false.



AMERICAN TAXPAYER

So, how do you remove these fraudulent "liens"? I suggest you pay a personal visit to the county recorder and show him a copy of the relevant state statute and Code Section 7608. This should prove to him that the "lien" was recorded in violation of state law. The fact that you can also prove that it was filed in violation of federal law is simply icing on the cake that helps support your claim with respect to the violation of state law. However, please remember that it is the violation of state law that is the issue here, not the attendant violation of federal law.

It should be made clear to the county recorder, that by recording a "lien" which was not "entitled to be filed" under state law, the county recorder injured the party in question by 1) putting a cloud on

his/her title (if real property is involved) and 2) undermined the person's ability to get credit. Therefore, inform the recorder, personally and in writing, that if he doesn't remove the lien forthwith you may sue him personally, in state court, for damages plus legal fees. Also consider suing the IRS agent who signed the "lien" in state court, since he won't be able to produce any delegation order that would have authorized him to file the "lien" in question.

In the meantime, an affidavit similar to the following should be recorded. This will put everybody on notice that the IRS "lien" filed against the party in question was fraudulent in a number of respects.

So, let's get those fraudulent IRS tax liens removed!

AFFIDAVIT

I, [name], of [address], swear to the following:

1. On or about September 2, 1992 The Register's Office of New York County allowed to be recorded a "Notice of Federal Tax Lien Under Internal Revenue Law," with respect to affiant with reference to his residence at _____.

2. Said "Notice" was signed by _____ who is identified as being an IRS "Revenue Officer."

3. In violation of Paragraph 244 of New York Federal Lien Law, the "Notice" was not certified to by either the Secretary of the Treasury or his delegate.

4. The "Notice of Lien" claimed that "Demand for payment of this liability has been made, but

it remains unpaid."

5. The "liability" referred to is supposedly an income tax liability, disingenuously referred to in the Notice as a "1040" tax.

6. However, nowhere in the Internal Revenue Code is there any reference to or provision for a "1040" tax, and the U.S. Congress has never imposed a "1040" tax on affiant.

7. The claim as referred to in paragraph 4 above is false.

8. No statutory "demand" for payment of any income tax or a "1040" tax was ever made upon affiant.

9. Affiant has no income tax or "1040" tax "liability" for any of the years _____ as claimed in the "Notice of Lien."

10. The person executing the "Notice of Lien" is shown to be a Revenue Officer, and as such he can have no statutory or delegated authority to issue "Notices of Federal Tax Lien" with respect to federal income taxes.

11. Section 7608(a) of the Internal Revenue Code (attached hereto) only provides Revenue Officers with authority to enforce subtitle E taxes (liquor, tobacco and fire arms), while the "Enforcement of laws relating to internal revenue other than subtitle E" taxes are delegated [in 7608(b)] to "Any criminal investigator of the Intelligence Division or of the Internal Security Service whom the Secretary charges ...etc, etc."

12. Since the person executing the Notice of Lien does not fall into the category of IRS agent as defined in 26 U.S.C. 7608(b), he can have no delegated authority to issue Notices of Liens with respect to income taxes.

13. Nowhere in the Internal Revenue Code (26 U.S.C.) is there any provision authorizing the filing of Notices of Federal Tax Liens in connection with income taxes or a, so called, "1040" tax.

I swear under penalty of perjury that this affidavit is true, correct, and complete to the best of my knowledge and belief.
Signature
Notary

¹ For a more detailed treatment of this topic see Chapters 13 & 14 of my book, *The Great Income Tax Hoax*.

² If your state has not adopted the "Federal Lien Registration Act" you may still be able to use this approach. Every state that I checked (Delaware, Rhode Island, and New Jersey) which had not adopted this Act, still had comparable provisions in their statutes. So, just check the index of state law for "federal liens" to find the comparable statutes.

³ Editor's note: News reports on 2/7/94 revealed that Lloyd Benson's signature has not yet appeared on our currency because Congress has not yet confirmed his nomination as Secretary of Treasury. This means we've had no lawful Sec. of Treasury during Clinton's administration and therefore, no IRS delegation of authority is even possible.

It's only speculation, but the mysterious delay in confirming Benson's nomination suggests that Benson may be somehow resisting the authority of the International Monetary Fund and might even be more interested in the welfare of the American People and our Republic than the profits of the world bankers. If this unlikely interpretation were correct, it would imply that there might still be some "patriots" in Washington, great (secret) power struggles are already underway, and Lloyd Benson's life may be in danger.

However, since President Clinton's legal counsel and "best friend", Vince Foster, mysteriously died of gunshot wounds in 1993, another White House Staff fatality might be "politically incorrect" at this time. Again, it's only speculation, but I wonder if Lloyd Benson is alive indirectly because Vince Foster is dead.

⁴ For an extensive treatment of this crucial fact see Chapter 6 ("No Law Establishes a 'Liability' for Income Taxes [The Heart of the Issue.]") of my book, *The Federal Mafia*.

⁵ UNIFORM FED. LIEN REG. ACT
Table of Jurisdiction Wherein Act Has Been Adopted

Alabama	Code 1975, §§ 35-11-42 to 35-11-48.
Alaska	AS 40.19.010 TO 40.19.050.
Arizona	A.R.S. §§ 33-1031 to 33-1035
Arkansas	A.C.A. § 18-47-201 to 18-47-207.
Calif.	West's Ann. Cal.C.C.P. § 2100 to 2107
Colorado	West's C.R.S.A. § 38-25-101 to 107.
Connectic	C.G.S. A. § § 49-32a.
Idaho	I.C. 45-201 to 45-207.
Illinois	S.H.A. ch. 82, § § 401 to 407.
Iowa	I.C.A. § § 331.609.
Kansas	K.S.A. 79-2613 to 79-2619.
Louis.	LSA-R.S. 52:51 to 52:56.
Maine	33 MRSA § § 1901 to 1907
Maryland	Code, Real Property, § 3-401 to 3-405
Michigan	M.C.L.A. § § 211.661 to 211.668.
Minnesota	M.S.A. § § 272.479, 272.481 - 272.488
Miss.	Code 1972, § § 85-8-1 to 85-8-15.
Montana	MCA 71-3-201 to 71-3-207.
Nebraska	R.R.S.1943, § § 52-1001 to 52-1008.
Nevada	N.R.S. 108.825 to 108.837.
New Hamp.	RSA 454-B:1 to 454-B:8.
New Mex.	NMSA 1978, § § 48-1-1 to 48-1-7.
New York	McKinney's Lien Law, § 240-245
N. Carol.	G.S. § § 44-68-10 to 44-68-17.
N. Dakota	NDCC 35-29-01 to 35-29-06
Oklahoma	68 Okl. St. Ann. §§ 3401 to 3407
Oregon	ORS 87.806 to 87.831.
Penn.	74 P.S. § § 157-1 to 157-8.
S. Dakota	SDCL 44-7-1 to 44-7-8.1.
Texas	V.T.C.A. Property Cd, § 14.001-14.007
Virginia	Code 1950, § § 55-142.1 to 55-142.9
Wash.	West's RCWA 60.68.005 - 60.68.902.
W. Virg.	Code, 38-10A-1 to 38-10A-5.
Wisconsin	WSA 779.97.
Wyoming	W.S.1977, §§ 29-6-201 to 208.