Direct Challenge to Personal Authority

June 13, 2002

Ima Crook, Revenue Officer
Internal Revenue Service
55 N. Robinson
Oklahoma City, Oklahoma 73102

PURPOSE: Verify authenticity of your authority

RE: Letter 2202 (DO), originating with Sam Slick, Director of Compliance for Area 6 – proposed examination for tax year 1999

Dear Ms. Crook:

After considerable review of the Internal Revenue Code, Treasury regulations and published Internal Revenue Service policy, including the Internal Revenue Manual, it appears that the proposed examination of my financial records exceeds venue and subject matter jurisdiction of the Internal Revenue Service and that you may be operating under color of authority of Government of the United States. I will address the bulk of the issues giving rise to concern for your authority in a decision request to be submitted to the Internal Revenue Service national office or by initiating adversarial proceedings. However, preliminary evidences are useful.

If you will consult § [5.1] 11.9 of the Internal Revenue Manual, which is currently posted on the Internal Revenue Service web page, you will find that IRS personnel do not have delegated authority to execute Form 1040 (individual), 1041 (trust) & 1120 (corporation/business) substitute returns under provisions of 26 U.S.C. § 6020(b). It follows that if IRS personnel do not have delegated authority to unilaterally execute these returns, Form 1040, 1041 and 1120 returns are not mandatory.

Next, consider the Pocket Commission Handbook, located in Chapter 3 of Internal Revenue Manual § 1.16.4. Exhibit [1.16.4] 3-1, Authorized Pocket Commission Holders, lists IRS personnel who are authorized to have pocket commissions. By cross-referencing to the delegation of authority to issue summonses, it appears that all IRS personnel authorized to issue summonses are under the Assistant Commissioner (International). If the authorities are accurate, your proposed examination would constitute a sham proceeding under color of authority of the United States. To the best of my knowledge, I have never received income from sources and activities subject to jurisdiction of the Assistant Commissioner (International).

Further, if you will consult Part 14 of the Internal Revenue Manual, “International”, at § 114.1, “Compliance and Customer Service Managers Handbook”, you will find that examination, collection, criminal investigation and customer service functions are all categorized under the Assistant Commissioner (International). There is no corresponding

categorization that might qualify as "domestic" operations.

If you will consult 26 CFR § 601.101, you will find that IRS personnel have jurisdiction for examination and collection only within internal revenue districts; all other functions fall under jurisdiction of the foreign district director, now the Assistant Commissioner (International). The Secretary of the Treasury has never established internal revenue districts in States of the Union, as required by 26 U.S.C. § 7621 and Executive Order #10289. Therefore, you must be operating under presumption of Assistant Commissioner (International) jurisdiction. See particulars *infra*.

Given this evidence, all of which is published in the public record, I concluded that it would be prudent to further investigate the extent of your authority, sources and activities it applies to, and what if anything you are empowered to investigate in the examination process. The investigation necessarily begins with your personal standing and authority.

Per *Ryder v. United States*, 115 S.Ct. 2031, 132 L.Ed.2d 136, 515 U.S. 177, I am required to initiate a direct challenge to authority of anyone representing himself or herself as a government officer or agent prior to the finality of any proceeding in order to avoid implications of *de facto* officer doctrine. When challenged, those posing as government officers and agents are required to affirmatively prove whatever authority they claim. In the absence of proof, they may be held personally accountable for loss, injury and damages. See particularly, the former 26 U.S.C. § 7804(b), now published in notes following § 7801. Per 26 U.S.C. § 7214(a), if and when IRS personnel exceed authority prescribed by law, or fail to carry out duties imposed by law, they are criminally liable.

Per Paragraph 2 of 31 CFR Part 1, Appendix B of Subpart C (Find following 31 CFR § 1.36), I am entitled to directly request evidence of authority and/or liability:

> Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act.

Please provide me with certified copies of the following:

1. Your precise title ("revenue officer", "revenue agent", "appeals officer", "special agent", etc.) and cite the section of the act of Congress that created the office you occupy;
2. Your constitutional oath of office, as required by Article VI, Paragraph 3 of the Constitution of the United States and 5 U.S.C. § 3331;
3. Your civil commission as agent or officer of Government of the United States, as required by Article II § 3 of the Constitution of the United States and attending legislation;
4. Your affidavit declaring that you did not pay for or otherwise make or promise consideration to secure the office (5 U.S.C. § 3332);
5. Your personal surety bond; and
6. Documentation that establishes your complete line of delegated authority, including all intermediaries such as the Assistant Commissioner (International), beginning with the

President of the United States.

These documents should all be filed as public records. See 5 U.S.C. § 2906 for requirements concerning filing oaths of office. In the event you do not have a personal surety bond, you may provide a copy of your financial statement, which you are required to file annually. Your financial statement will be construed as a private treaty surety bond in the event that you exceed lawful authority.

The following is a reasonably concise list of causes for challenging and requiring you to verify your authority and bond your action. The list includes authority references sufficient to provide notice and enable you to make inquiry reasonable under the circumstance.

1. After exhaustive study of internal revenue laws of the United States, a consortium of researchers has concluded that very few citizens and residents of the United States and domestic corporations, partnerships, etc., are liable for federal income taxes imposed by Subtitle A of the Internal Revenue Code that require keeping books and records and filing returns. Taxing and liability statutes do not apply to income sources and activities of the American people and domestic juristic entities other than those who receive income from foreign sources, insular possessions of the United States, and maritime activity regulated by treaty or trade agreement. For reasonably comprehensive treatment of Subtitle A income tax, see the videotape *Theft by Deception* by Larken Rose, available via Internet at www.theft-by-deception.com. Also, see the memorandum "Persons Liable for Subtitle A, B & C Federal Taxes & Subject to Subtitle F Collections", available on Internet at www.LawResearch-Registry.org on the research page.
2. Employment (social welfare) taxes imposed by Chapter 21 of the Internal Revenue Code are mandatory and elective only in possessions of the United States. See definitions of "State", "United States" and "citizen" at 26 CFR § 31.3121(e)-1. However, Congress has enacted legislation that permits federal employees to participate in these social welfare programs and legislatures of States of the Union have enacted legislation that authorizes state governments and their respective political subdivisions to participate in federal social welfare programs. There is no corresponding provision that extends to the private sector in States of the Union. The Constitution of the United States does not authorize Congress to tax one for the benefit of another so social welfare taxes are beyond the scope of constitutionally enumerated powers. Further, social welfare taxes are direct taxes that fall within the scope of the apportionment clause; they do not fall within the scope of the uniformity clause. The Sixteenth Amendment did not alter or otherwise affect distinction between the two.
3. Chapter 24 of the Internal Revenue Code does not impose a tax, but merely authorizes withholding of Subtitle A & C income and employment taxes from wages of employees, as defined at 26 U.S.C. § 3401(c), by employers, as defined at 26 U.S.C. § 3401(d). Chapter 24 withholding at the source provisions are exclusively applicable to governmental entities and government personnel. In order to withhold from wages, the employer must first receive the Form 8655 reporting agent certificate from the Treasury

Financial Management Service then file the completed form with the Andover office of the Internal Revenue Service. See § 3.0.258.4 (11/21/97) of the Internal Revenue Manual, January 1999 edition on CD.

4. Court documents and published district and circuit court decisions verify that the Internal Revenue Service is agent of the [federal] United States of America, not Government of the United States. (See 26 U.S.C. § 7402: "The district courts of the United States at the instance of the United States shall have jurisdiction …") For distinction between the "United States" and the "United States of America" as unique and separate governmental entities, see historical and revision notes following 18 U.S.C. § 1001 and Attorney General delegation orders to the Director of the Bureau of Prisons, 28 CFR §§ 0.96 (custody of prisoners of the United States) & 0.96b (transfer of United States of America prisoners to United States custody). Court records therefore verify that Internal Revenue Service personnel are agents of a foreign government and all Internal Revenue Service claims are made on behalf of a government foreign to the United States and States of the Union.

5. The Internal Revenue Service, successor of the Bureau of Internal Revenue, was not created by Congress, as required by Article I § 8, clause 18 of the Constitution of the United States, so cannot legitimately enforce internal revenue laws of the United States in States of the Union. (See Statement of IRS organization at 39 Fed. Reg. 11572, 1974-1 Cum. Bul. 440, 37 Fed. Reg. 20960, and the Internal Revenue Manual 1100 through the 1997 edition; see also, *United States v. Germaine*, 99 U.S. 508 (1879); *Norton v. Shelby County*, 118 U.S. 425, 441, 6 S.Ct. 1121 (1886), and numerous other cases that reinforce the determination "there can be no officer, either *de jure* or *de facto*, if there be no office to fill.")

6. Internal revenue districts have not been established in States of the Union, as required by 26 U.S.C. § 7621 and Executive Order #10289, as amended. Therefore, Internal Revenue Service incursion into States of the Union for purposes authorized by Chapter 78 of the Internal Revenue Code are beyond venue prescribed by law. See also, 4 U.S.C. § 72, concerning the requirement for all departments of government to limit operations to the District of Columbia unless authorized to operate elsewhere by statute. The following compliant IRS venue and jurisdiction statements are published in 26 CFR § 601.101: "Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue." Otherwise, "The Director, Foreign Operations District, [now Assistant Commissioner (International)] administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations…"

7. The Internal Revenue Service is not the "delegate" of the Secretary of the Treasury, as the term is defined at 26 U.S.C. § 7701(a)(12)(A).

8. The Internal Revenue Service operates in an ancillary or other secondary capacity under contract, memorandum of agreement or some comparable device to provide services under original authority delegated to the Treasury Financial Management Service or some other bureau of the Department of the Treasury; the contracted or otherwise authorized

services extend only to government employees and employers, as defined at 26 U.S.C. §§ 3401(c) & (d). The authorization is essentially intragovernmental in nature; it does not extend to private sector enterprise in States of the Union.

9. Internal Revenue Service personnel do not have delegated authority to execute Form 1040 (individual), 1041 (trust) and 1120 (business/corporation) income tax returns as substitute returns under authority of 26 U.S.C. § 6020(b). See § [5.1] 11.9 of the Internal Revenue Manual currently posted on the Internal Revenue Service web page. If follows that if there is no authority to execute these returns as substitute returns that they are not mandatory.

10. Whenever someone subjected to examination challenges or otherwise contests fact and/or law issues, examination officers are required to resolve contested issues or refer them to the appeals office for resolution. As an alternative, the examination officer may request a National Office Technical Advice Memorandum that provides findings of fact and conclusions of law. See 26 CFR § 601.105 generally.

11. In the event of an examination in which an examination officer concludes that there is an income tax liability, he must issue a 30-day letter that lists particulars of the proposed deficiency. The 30-day letter must also inform the alleged taxpayer of his right to appeal to the examination officer's manager and to the appeals office. See 26 CFR §§ 601.105(c)(2)(i) & (d)(1)(iv).

12. Internal Revenue Service appeals procedure prescribed in 26 CFR § 601.106 does not comply with appeals process required by the Administrative Procedures Act at 5 U.S.C. §§ 553 through 557. The IRS administrative appeals hearing is informal; there is no provision for the appeals officer to administer oaths; formal testimony is not taken at IRS appeals hearings; the appeals officer is not vested with subpoena authority; the alleged taxpayer is not afforded the opportunity to cross-examine adverse witnesses placed under oath; and whether or not the Internal Revenue Service is independently represented is elective rather than mandatory. See *Federal Maritime Commission v. South Carolina State Ports Authority, et al*, No. 01-46, 535 U.S. ___ (2002), decided May 28, 2002, and cases cited therein, for administrative due process requirements. Failure to comply with Administrative Procedures Act provisions concerning administrative appeals requirements deprives people who have a case or controversy arising under internal revenue laws of the United States involving the Internal Revenue Service of procedural due process rights.

13. Income tax liabilities must be assessed in compliance with requirements of 26 U.S.C. § 6203 and 26 CFR § 301.6203-1 before there is a tax liability. On request, the taxpayer against whom income tax liabilities are assessed is entitled to receive the assessment certificate or certificates. The law does not authorize computer-generated or other alternatives. See *Hughes v. United States of America*, 953 F.2d 531 (9th Cir.1991).

14. The Secretary is required to issue 10-day notice and demand for payment after lawful, procedurally proper assessments are made (26 U.S.C. § 6303); there is no statutory or regulatory authorization for notice and demand for payment being issued prior to tax liabilities being assessed in compliance with 26 CFR § 301.6203-1.

15. Prior to any adverse action to collect contested delinquent tax debts (properly

assessed liabilities), the current general agent of the Treasury and the Attorney General must authorize litigation. See particularly, Executive Order #6166 of June 10, 1933, as amended, 5 U.S.C. § 5512, and 26 U.S.C. § 7401. (The General Accounting Office is listed as general agent of the Treasury in notes following 5 U.S.C. § 5512, but appears to have delegated certification of debts to Government of the United States, including tax debts, most probably to the Treasury Financial Management Service or a subdivision thereof)

16. Any statutory lien "arising" under § 6321 of the Internal Revenue Code is inchoate (unperfected) until there is a judgment lien secured in compliance with the Federal Debt Collection Procedures Act (See Chapter 176 of Title 28, particularly 28 U.S.C. § 3201). Therefore, notices of federal tax lien, notices of levy and other such instruments utilized to encumber and convert private property are uttered instruments unless perfected by a judgment from a court of competent jurisdiction. See also, Fifth Amendment due process clause, clarified by relation-back doctrine (See *United States v. A Parcel of Land, Buildings, Appurtenances and Improvements, known as 92 Buena Vista Avenue, Rumson, New Jersey* (1993), 507 U.S. 111; 113 S.Ct. 1126; 122 L.Ed. 2d 469).

17. Garnishment of wages and bank accounts may be executed only as prejudgment and postjudgment remedies in compliance with the Federal Debt Collection Procedures Act, published as Chapter 176 of Title 28. See particularly, *Fuentes v. Shevin, Attorney General of Florida, et al,* (1972) 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed. 2d 556, detailed by the Supreme Court of the State of Florida decision in *Ray Lien Construction, Inc. v. Jack M. Wainwrite,* (1977) 346 S.2d 1029, for particulars concerning required notice and opportunity for hearing.

18. All Internal Revenue Service seizures where there is not a judgment lien in place are predicated on the underlying presumption that a drug-related commercial crime specified in 26 CFR § 403.38(d)(1) has been committed and that the seized property was being used in connection with or was the fruit of the crime. See particularly, Delegation Order 157, Rule 41 of the Federal Rules of Criminal Procedure, and 26 U.S.C. § 7302 (property used in violation of internal revenue laws). The "in rem" action (26 U.S.C. § 7323) is admiralty in nature and presumes that there is a maritime nexus. Also see 26 U.S.C. § 7327 concerning customs laws.

19. Collateral issues and procedural essentials (nature & cause of action, standing of the Internal Revenue Service, venue, subject matter jurisdiction generally, and substantive and procedural due process rights) are matters that must be documented in record when challenged. Therefore, the mandate for disclosure falls within substantive and procedural rights that cannot be avoided or otherwise passed over through technicalities or silence. U.S. Supreme Court decisions verifying these requirements are too numerous to list in this context.

20. The Administrative Procedures Act and the Federal Register Act require publication of organizational particulars and procedure in the Federal Register. See particularly, 5 U.S.C. § 552. The Internal Revenue Service has failed to comply with these mandates. Therefore, IRS personnel engaged in federal tax administration have a duty to affirmatively resolve organizational and other collateral and procedural issues when they are raised in the

administrative forum.

21. Internal Revenue Service personnel acts not authorized by law and omission of duties imposed by law are criminal in nature (26 U.S.C. §§ 7214(a)(1), (2) & (3)), and whether knowingly or unknowingly, IRS personnel operating in States of the Union, except with the possible exception of authority for enforcing drug-related customs laws, are involved in a seditious conspiracy and racketeering enterprise. Where IRS personnel operate under color of authority of the United States when in reality they are agents of a government foreign to the United States, offenses may be construed as treason and conspiracy to commit treason. See also, 18 U.S.C. § 912 concerning false impersonation of an officer of the United States.

22. There are essentials to any case or controversy, whether administrative or judicial, arising under the Constitution and laws of the United States (Article III § 2, U.S. Constitution, "arising under" clause). See *Federal Maritime Commission v. South Carolina Ports Authority*, 535 U.S. ___ (2002), decided March 28, 2002, and cases cited therein. The following elements are essential:

1) When challenged, standing, venue and all elements of subject matter jurisdiction, including compliance with substantive and procedural due process requirements, must be established in record;

2) Facts of the case must be established in record;

3) Unless stipulated by agreement, facts must be verified by competent witnesses via testimony (affidavit, deposition or direct oral examination);

4) The law of the case must affirmatively appear in record, which in the instance of a tax controversy necessarily includes taxing and liability statutes with attending regulations (See *United States of America v. Menk*, 260 F. Supp. 784 at 787 and *United States of America v. Community TV, Inc.*, 327 F.2d 79 (10th Cir., 1964));

5) The advocate of a position must prove application of law to stipulated or otherwise provable facts; and

6) The trial court, whether administrative or judicial, must render a written decision that includes findings of fact and conclusions of law.

Knowing your precise title and the act of Congress that created the office you occupy is essential to establishing your authority for the same reason it is essential to establish legitimacy of the Internal Revenue Service. Per Article I § 8 clause 18 of the Constitution of the United States, Congress is charged with responsibility for making all laws with respect to authority and operation of Government of the United States. Per *United States v. Germaine*, 99 U.S. 508 (1879); *Norton v. Shelby County*, 118 U.S. 425, 441, 6 S.Ct. 1121 (1886), and numerous other cases that reinforce the determination "there can be no officer, either *de jure* or *de facto*, if there be no office to fill."

The constitutional oath of office is important enough that the first official act of Congress in 1789 set requirements for the oath in place. See 1 Stat. 23. The Constitution of the United States mandates a constitutional oath of office in Article VI, Clause 3. The requirement for civil commissions is in Article II § 2, Clause 2 and § 3 of the Constitution.

Requirements for civil commissions were particularized in *Marbury v. Madison*, 5 U.S. 137, 2 L.Ed. 60, 1 Cranch 137 (1803), and *United States v. Le Baron*, 60 U.S. 73 (1856). Requirements for surety bonds arise from common law doctrine and statutory law. See particularly, 26 U.S.C. § 6803, 7101, 7102 & 7485, 26 CFR §§ 301.7101-1 & 301.7102-1 and 31 U.S.C. § 9303.

Collateral issues other than the above requests intended to document your personal standing will be addressed separately from this request.

You may provide the requested items within a reasonable period of twenty calendar days from receipt of this request. See the Administrative Procedures Act for deadlines. In the alternative, you may recuse yourself from this case so long as you provide written notice. In the event you do not formally recuse yourself, you may be considered a party to any past or subsequent adverse action. You may withdraw any and all claims, demands and/or encumbrances issued directly or indirectly within the scope of your alleged administrative authority.

Regards,

John Doe