

Request for Assessment Certificates and Related Items

December 6, 2001

David Dorque, Revenue Agent
Internal Revenue Service
55 N. Robinson
Oklahoma City, Oklahoma 73102

PURPOSE: This request is being submitted to secure copies of assessment certificates and related items maintained by the Internal Revenue Service. The request is for calendar years ending December 31, 1996 through 1998.

AUTHORITY: First, Fourth and Sixth Amendments to the Constitution of the United States, 26 USC §§ 6103(c) & (e), 26 U.S.C. § 6203 & 26 CFR § 301.6203-1, and § 2 of 31 CFR Part 1, Appendix B of Subpart C.

ENCLOSURE: Memorandum titled, "Requirement for Assessment Certificates & Disclosure Mandate"

IDENTIFICATION: John Doe, SSN 555-55-5555

Dear Agent Dorque:

This request for assessment certificates and related items from documents, records and other matter the Internal Revenue Service is required to maintain is being submitted under authority of substantive rights secured by the first ten amendments to the Constitution, and under authority of 26 U.S.C. § 6103(c) & (e), "disclosure to persons having material interest." Assessment certificates and support documents are being requested under authority of 26 U.S.C. § 6203 and 26 CFR § 301.6203-1.

The request is being made directly to you under authority of § 2 of 31 CFR Part 1, Appendix B of Subpart C, reproduced here in relative part:

Individuals are advised that 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.

Where you are involved in the audit, investigation and/or collection process, you must comply with the mandate of § 2 of 31 CFR Part 1, Appendix B of Subpart C. Your assistance in securing the requested items, or verification that requested items do not exist, is essential. Additionally, it is my firm belief that inquiry necessary for you to secure the requested items will prove beyond a shadow of a doubt that a federal income tax liability has never been assessed against me.

This request will be construed as preliminary to a formal protest that if necessary

will be filed as an administrative appeal. Therefore, you will please cease further collection activity until such time as the controversy is resolved. Should you fail to comply with the requirement to provide documents, records and other items, or continue adverse collection activity prior to this controversy is resolved, I will immediately apply for a Taxpayer Assistance Order under authority of 26 U.S.C. § 7811(a)(3) and file a criminal complaint under authority of 26 U.S.C. § 7214(a)(3). Consult *Bothke v. Flour Engineers and Constructors, Inc.*, 713 F.2d 1405 (9th Cir., 1983), for sufficiency of notice and your prospective liability.

It is seemingly common practice for disclosure officers and other Internal Revenue Service personnel to avoid the statutory duty to provide copies of assessment certificates. Therefore, I am enclosing a memorandum on the subject in hopes of avoiding that particular problem. Section 6203 of the Internal Revenue Code mandates that, "Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of assessment." The implementing regulation details what elements of the assessment certificate must be included. While other documents and/or computer-generated records may qualify as presumptive or secondary evidence, only the assessment certificate itself constitutes conclusive evidence. There is no statutory or regulatory authority for substitutes when someone requests assessment certificates. Failure to fulfill duties imposed by 26 U.S.C. § 6203 and § 2 of 31 CFR Part 1, Appendix B of Subpart C may be subject to penalties prescribed by 26 U.S.C. § 7214(a).

Unless your job description includes duties of legal counsel, please do not engage in unnecessary dicta. Either documents, records and other items I am requesting exist or they don't. It is the responsibility for courts of competent jurisdiction to decide what documents, records and other items satisfy requirements of the law. I am not requesting legal advice nor am I interested in your interpretation of law.

The documents and/or the response letter you send will be used in administrative and/or judicial due process forums so must comply with requirements of civil rules of procedure and evidence. Therefore, please have all documents certified with the Form 2866 Certificate of Official Record, or in the event there are no assessment certificates and other documents and records I am requesting for any given calendar year specified above, have your response certified with the Form 3050 Certificate of Lack of Records.

In the event that this request, or portions thereof, is forwarded to another office or officer, provide me with the name, employee identification number, ground delivery address and telephone contact information for the principal officer to whom it is sent. Forwarding it to someone else will not relieve you of the duty imposed by § 2 of 31 CFR Part 1, Appendix B of Subpart C, but it will simplify tracking of the request.

In the meantime, please be advised that any action you take to collect an alleged tax debt without first verifying that alleged liabilities have been assessed in compliance with requirements of 26 U.S.C. § 6203 and 26 CFR § 301.6203-1 will be construed as willful and with intent for purposes of 26 U.S.C. §§ 7214(a)(2) & (3).

Basic declarations

The documents, records and other items being requested are for my own use.

I have a material interest in the documents, records and other items being requested.

If any given document contains information that cannot be released for security reasons or otherwise, the confidential information may be redacted prior to sending me a certified copy. Include reasons for redaction. I reserve the right to appeal any such decision.

You have my firm promise that on your billing, I will pay the Internal Revenue Service a reasonable fee for certification of documents and a sum up to seventy-five dollars (\$75.00) for photocopying or other reproduction expense.

I am having my signature notarized in order to provide positive identification.

Documents, records and other items being requested

For calendar years ending December 31, 1996 through 1998, please send the following documents that specifically identify me and comply with the applicable procedure prescribed by the Internal Revenue Code, Treasury regulations and/or policy published in the Internal Revenue Manual:

1. Procedurally proper assessment certificates for the principal for each class of tax assessed (See 26 U.S.C. § 6203, 26 CFR § 301.6203-1 and Internal Revenue Manual §§ 3.17.63.14.7 through 3.17.63.14.21);
2. Procedurally proper assessment certificates for the interest for each class of tax assessed;
3. Procedurally proper assessment certificates for the penalty for each class of tax assessed;
4. Any and all jeopardy assessment certificates;
5. Any and all deficiency assessment certificates;
6. Procedurally proper non-tax penalty assessment certificates for such things as frivolous filing, etc.;
7. Procedurally proper assessment certificates for non-tax penalty interest;
8. Support documents for each assessment certificate, if not predicated on a return other than a substitute for return allegedly executed by IRS personnel;
9. Form 2162 Notice of Assessment for each assessment requested above;
10. Form 3553 Prompt Assessment Billing Assembly for each assessment requested above;
11. Form 4907 Notice of Taxpayer Delinquent Account for each assessment requested above; and

12. Form 17 notice and demand for payment of Federal taxes issued subsequent to each assessment requested above. In the alternative, provide certified copies of the substitute notice and demand if the Form 17 is no longer used.

I anticipate confirmation of receipt within twenty calendar days from the date that this request is received at your office.

Regards,

John Doe

Notary Verification of Identity

I certify that John Doe, known to me, endorsed this request for documents, records and other items on the date set out below.

My commission expires _____.

Notary Public

Date

SEAL: