

Responding To "Frivolous" Threats

The following material consists of a generic version of a letter designed as a possible immediate response to a bogus "frivolous return" allegation and a generic affidavit of a sort that might accompany such a letter, or be suitable for use on its own in response to any erroneous "frivolous penalty" proceedings. Obviously, the propriety of using instruments of this sort depends on the truth and accuracy of all testimony appearing thereon, responsibility for which falls on anyone choosing to be inspired by these models. Learn more about "frivolous" notices at <http://losthorizons.com/A/IRSFRPFraud.htm>.

(By the way, the "frivolous positions" relevant to what follows can be found as follows: See the 2007 list covering submissions from March 16, 2007 until Jan. 14, 2008 [here](#). See the 2008 list covering submissions between Jan. 15, 2008 and April 7, 2010, [here](#). See the list covering submissions from April 8, 2010 to the present (10/29/12, at least) [here](#).)

In addition to the material that follows, I also recommend putting a true and accurate version of the affidavit at <http://losthorizons.com/Documents/LawsuitAffidavit.pdf> into the record (by "true and accurate", I mean ensure that nothing is said that is not what you know and believe to be true).

LETTER

To whom it may concern:

I do not believe that the vague assertions made on the unsigned notice styled as a "[form number]" sent to me __/__/__ (copy attached) amount to sufficiently formal controversion of the testimony on my return as to merit specific response. For one thing, your notice fails to identify any actual flaw in my return.

Perhaps you have mistaken my return for someone else's. Perhaps you are simply trying to operate outside your authority in making these extortionate threats.

Nonetheless, experience has taught me that you are reflexively devious and exploitive. Even though your "[form number]" is on its face meaningless, I will operate on the presumption that it is sent as a pretext on the basis of which you will imagine some further actions to be legitimized should I fail to rebut.

Therefore, you will find attached a sworn affidavit directed at each element of fact involved in the penalty with which you threaten me. In the absence of contradictory evidence of comparable focus and competence you are entirely lacking any legal grounds to proceed with your threats, in my opinion.

In any event, you bear the burden of proving your allegations, a burden which is NOT met by simply making vague assertions and threats. I suggest you seek competent legal advice.

By the way, nothing I have done or do now by making this response or otherwise is to be construed as a waiver of any of my rights; further, I particularly demand

and insist upon every due process protection relevant to this matter under the common law, [your state] law and federal law.

This letter and its attachments will become part of the formal record of our correspondences and notices I have made to you, for use in all future legal proceedings.

_____/____/____
[printed name; address; phone number]

Attachments:
"[form number]"
Affidavit

[The following sample affidavit is oriented toward a form 4852 filer. Appropriate alterations or additions would need to be made in other circumstances.]

AFFIDAVIT

I, _____, being of sound mind and upon my oath, depose and state as follows:

1. The tax return I completed and submitted concerning the year ____ contains entries declaring total (gross) income receipts and adjusted gross and net income receipts computed according to the instructions provided; a self-assessment of tax due upon the computed "net income" per the tax table provided; and an unaltered signed affirmation regarding the truth, completeness and correctness of these entries and assessment.

To the best of my knowledge and belief, the above-listed entries comprise information by which the substantial correctness of the self-assessment on the return can be judged.

2. Aside from identifying information, address, signature and date, the Form 1040 with accompanying instruments I completed and submitted concerning the year ____ contains nothing from my hand but:

* numeric entries;

* a correction of a preprinted declaratory statement concerning the notification of the Internal Revenue Service of my rebuttal of a W-2 submitted by another from "have notified" to "hereby notify";

* the answer to a question posed by the Secretary for an explanation of how I determined what amounts to report on the various lines of the form: "[whatever was said]"; and

* the answer to a question posed by the Secretary concerning what efforts were made to secure a correct W-2 from the payer listed on the form: "[whatever was said]".

[and/or

* a statement [or statements] declaring the purpose of an instrument [or instruments] created to rebut allegations made by others on Forms 1099 or other information returns, and a jurat [or jurats] regarding that [those] declaration[s] and rebuttal[s].]

To the best of my knowledge and belief, nothing on the return constitutes information that on its face indicates that the self-assessment is substantially incorrect.

3. The information on the tax return I completed and submitted concerning the year ____ is not based on, nor reflective of, any "position" identified by the Secretary of the Treasury or his delegates as "frivolous" and published as such pursuant to 6702(c).

4. The content of the tax return I completed and submitted concerning the year ____, and the act of its completion and submission, are not intended, expected or desired to impede or delay the administration of any federal tax law.

On the contrary, the return I completed and submitted concerning the year ____ is my best effort to fully comply with all legal obligations to which I am subject to the best of my understanding of those obligations, and to conform with all relevant provisions of law as best I understand those provisions. It is my sincere hope and intent that the return contributes to and is met with the smooth, speedy and proper administration of the federal tax laws.

5. I am not an officer or employee of a corporation or member or employee of a partnership, who as such officer, member or employee is under any duty whatsoever concerning tax forms, reports or tax-related matters of any kind. Nor am I a member of any class illustrated or defined by the foregoing enumerated examples.

6. I have never knowingly and intentionally created, acknowledged or supported any relationship or presumption of a relationship between me and the United States under auspices or by virtue of which the United States is authorized to seize property from me or subject me to fines or penalties other than by making a formal complaint and proving its claims to the satisfaction of an impartial judicial tribunal as Plaintiff in an adversarial proceeding in which I enjoy the benefit of all presumptions, and which conforms to the specifications of the Seventh Article of Amendment to the United States Constitution.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed __/__/__, at [your address]

