

A R  
192 Street  
Nampa, Idaho 83686

Via Certified Mail # 7006 2760 0000 9107 3510

TIME SENSITIVE: RESPONSE REQUIRED

INTERNAL REVENUE SERVICE  
OGDEN, UTAH 84201

RE: Notice CP 523, Notice Date 08-06-2007 in regards to 1040, 12-31-2005,

Today's Date 08-24-2007

Dear Madam or Sir,

I am in receipt of the Notice of Intent to Levy sent by your office, copy attached, needless to say I was immediately thrown back by it, however upon reading the Internal Revenue Code Section (IRCS) 6331 mentioned in the Notice, I have come to believe the Notice has been sent to me in error.

### § 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.

**(Bold emphasis added)**

I was NOT an officer (of a U.S. Corporation or in the Armed Forces), employee (engaged in "employment" with any of the before mentioned and or the following), or elected official (I did NOT perform the functions of a public office), of the United States, the District of Columbia, or any agency or instrumentality of either during the year 2005, through now for that matter.

In light of the basic legal principle of "Inclusio unius est exclusio alterius", (The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. ... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded, Black's Law Dictionary, 6th edition).

I cannot in any way see how IRCS 6331 applies to me, and I further support this by the (exclusive) specifications in 26 CFR 301.6331-1 (the regulatory structure by which 26 USC 6331(a) is implemented).

Sec. 301.6331-1 Levy and distraint.

Authority to levy--(1) In general. If *any person* liable to pay *any tax* ---. Omitted here to save space

(2) Jeopardy cases. --- Omitted here to save space

(3) Bankruptcy or receivership cases. --- Omitted here to save space

(4) Certain types of compensation—(i) *Federal employees*. Levy may be made upon the salary or wages of any officer or employee (including members of the Armed Forces), or elected or appointed official, of the United States, the District of Columbia, or any agency or instrumentality of either, by serving a notice of levy on the employer of the delinquent taxpayer. As used in this subdivision, the term “*employer*” means (a) *the officer or employee of the United States, the District of Columbia, or of the agency or instrumentality of the United States or the District of Columbia*, who has control of the payment of the wages, or (b) any other officer or employee designated by the head of the branch, department, agency, or instrumentality of the United States or of the District of Columbia as the party upon whom service of the notice of levy may be made. If the head of such branch, department, agency or instrumentality designates an officer or employee other than one who has control of the payment of the wages, as the party upon whom service of the notice of levy may be made, such head shall promptly notify the Commissioner of the name and address of each officer or employee so designated and the scope or extent of his authority as such designee.

(ii) *State and municipal employees*. Salaries, wages, or other compensation of any officer, employee, or elected or appointed official of a State or Territory, or of any agency, instrumentality, or political subdivision thereof, are also subject to levy to enforce collection of any Federal tax.

(iii) *Seamen*. Notwithstanding the provisions of section 12 of the Seamen's Act of 1915 (46 U.S.C. 601), wages of seamen, apprentice seamen, or fishermen employed on fishing vessels are subject to levy. See section 6334(c). (*Emphasis added*)

I presume that 'State and municipal employees' of and 'Seamen' refer to those of the federal States, municipalities and Territories (as defined in the relevant revenue statutes), and federally commissioned mariners, respectively; however, such details are debatable.

The specific inclusion of these entities, however, unambiguously contradicts any suggestion that the authority of the levy power in regard to compensation, can or should be presumed as extending beyond those entities specified, if that were actually true, paragraph (4)(i) and subparagraphs (ii) and (iii) cited above would be entirely unnecessary. If the compensation or property of literally “any person” actually can be, or lawfully is, reached by these levy provisions, then no further specification would be necessary. That these specifications are provided proves that this is not so. Within the context of the statute, “any person” clearly DOES NOT mean each and every natural person; it means any person that is among the groups specified.

Furthermore, even if I were uncertain in any of these regards, I am mindful of the United States Supreme Court's instructions in *American Banana Co. v. United Fruit Co.*, 213 U.S. 347 (1909) that,

"Words having universal scope, such as 'every contract in restraint of trade,' 'every person who shall monopolize,' etc., will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch."

And in *Gould v. Gould*, 245 U.S. 151 (1917) that,

"In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen."

Now, with all due respect to the IRS and how busy all of you working there may be, I filed Form 1040X with attachments amending Form 1040 for 12-31-2005 on May 14, 2007, it was delivered Certified Mail # 7007 0220 0001 4767 5677 which was received at the Internal Revenue Service Center at Fresno, CA 93888-0422 on or before May 21, 2007. It has become obvious that Form 1040X amending the Form 1040 return for 12-31-2005 has not been processed as of the date of this Notice of Intent to Levy.

Being that the results of processing Form 1040X for 2005 has become of paramount importance given the gravity of this Notice, I hereby request that Form 1040X amending Form 1040 for 12-31-2005 be processed within 30 days of the receipt of this letter by the Internal Revenue Service (IRS) and on completion, the results of that process be sent to me. I don't feel this is too much to ask since the IRS has been in possession of Form 1040X amending the Form 1040 return for 12-31-2005 for over 2-1/2 months. Furthermore,

I hereby request that the Secretary deliver to me a complete photocopy of the record of any and all assessments in regards to this Notice of Intent to Levy and the original Form 1040 return I filed for 12-31-2005, which shall include all the documents used in making the assessments of tax, penalties and interest with the signature of the assessment officer on the summary record of assessment(s). I make this request per Internal Revenue Code Section 6203 and 26 CFR § 301.6203-1. The reason for this request is to establish the existence of any and all assessments pertaining to 12-31-2005 and to determine for myself the assessment (s) complete compliance with all related provisions of law.

A R  
Sovereign Citizen of Idaho