George [redacted]
XXX-XX-XXXX
Cell: [redacted]
North Chesterfield. VA 23236
Tax Period 12/2015
May 18th, 2017

Troy Duval
Employee ID: 1000244452
Tel: [redacted]
Department of the Treasury
Internal Revenue Service
Appeals Office
401 W. Peachtree St. N.W. Suite 1455
Atlanta, GA 30308
FAX- 855-226-0589

Re: Collection Due Process hearing
Year at issue:2015

Dear Troy,

I am responding with a communication to be used per instructions from the CDP hearing letter dated March 23, 2017. In the letter the relevant issue I wish to discuss is #2 Challenging the appropriateness of collection action. I will also discuss the mis-appropriateness of the lien filing and levy explaining why I qualify for a notice of lien withdrawal, or lien removal, or any other term your department uses to retract the Lien from all public records where it has been recorded.

Firstly, I completely disagree with the assessment of "frivolous filing". I bring your attention to the legal basis and definition of a "frivolous filing" as shown in the Statutes below. Please note that the description is identical with what you will find from your own due diligence for verification purposes. And Troy did you know that using the US mail to send threatening communication is a crime and a punishable violation of 18 US Code 876. But let me refocus your attention to the Statute below upon which I make my defense and stand.

> *26 USC § 6702 - Frivolous tax submissions*
>
> *(a) Civil penalty for frivolous tax returns*
> *A person shall pay a penalty of $5,000 if—*
> *(1) such person files what purports to be a return of a tax imposed by this title but which—*
> *(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or*
> *(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and*
> *(2) the conduct referred to in paragraph (1)—*

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or
(B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) Civil penalty for specified frivolous submissions
(1) Imposition of penalty
Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.
(2) Specified frivolous submission
For purposes of this section—
(A) Specified frivolous submission
*The term "**specified frivolous submission" means a specified submission** if any portion of such submission—*
(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or
(ii) reflects a desire to delay or impede the administration of Federal tax laws.
(B) Specified submission
*The term "**specified submission" means**—*
(i) a request for a hearing under—
(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or
(II) section 6330 (relating to notice and opportunity for hearing before levy), and
(ii) an application under—
(I) section 6159 (relating to agreements for payment of tax liability in installments),
(II) section 7122 (relating to compromises), or
(III) section 7811 (relating to taxpayer assistance orders).
*(3) **Opportunity to withdraw submission***
*If the Secretary provides a person with notice that a submission is a **specified frivolous submission** and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.*

As you can see by my submitted 2015-1040 form that is: computer generated, legible, mathematically accurate and doesn't meet any of the qualification stated within the LAW (Statute) cited above.

The Secretary's Notice 2010-33 further describes (b)(2)(A)(i)further lists some 40 plus other reasons which again don't meet my submitted return of the 1040 for 2015.

Again I ask, What is the basis of this frivolous determination? The Law states 3 reasons with subparagraphs which unequivocally describe and define a "frivolous return" . My filed 1040 for 2015 doesn't meet any of items mentioned. The law specifies that any liability for a tax must be based upon a taxpayer's self-assessment. Since I do have personal knowledge, I profoundly disagree with IRS's conclusion since I have studied the law with respect to this matter and double-checked the subject return against every known or published definition (both state and federal) of "frivolous" and every active list of "frivolous arguments," and found that none of my previously filed documents are not, in the smallest way tainted, by even one of them. I agree that frivolous arguments ought not to be accepted, but I relied upon no such arguments. While your "determination" is conveniently boiled down to one vague word, an adequate rebuttal requires some actual effort, even though the burden of proof is clearly upon the Secretary of the Treasury, or your direct supervisor(s) whose name(s) I hereby request to know . The mere word of an IRS employee does not turn hearsay into a fact.

Your agency has clear written instructions to address nearly every conceivable circumstance, giving clear written direction to employees how to handle each situation. Their own instructions in the Internal Revenue Manual state that frivolous returns are NOT PROCESSED:

5.20.10.4.3 (05-20-2014)
Responding to Frivolous Filings Subject to Penalty Under IRC 6702(a)

1. If it is determined that a taxpayer has submitted a tax return, including an original or amended return taking a frivolous position, stamp the return with the date received. Do not send the return through the Submission Processing Center. Send the complete original return with all attachments, including the envelope, to the FRP and maintain a copy of the return in the case file. Frivolous returns cannot be processed because they are either self-contradictory or don't possess the information needed to processes them – which makes them frivolous.

My return was processed and my refund was issued – it cannot be frivolous. If they believe that my return is inaccurate, that does not make it frivolous. An attempt to assert that my return is frivolous after it has been processed is an abuse of logic. My return has been processed and the refund has been retained for other reasons, which doesn't take away in the slightest bit that it was a valid return with a refund due me, and not "frivolous"/

Additionally, #1 on the **Taxpayer's Bill of Rights** is the Right to Be Informed: "Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive **clear explanations** of the outcomes." **I have not been informed**. I do not know why I've been accused of a frivolous submission and I do not know which argument I supposedly invoked to provoke a frivolous declaration,even though I have several times requested it, and the penalty seems to climb every time I exercise my **right to be informed.** Where is the justice of these proceedings and where is my "due process" rights? However there is no evidence this supports a "frivolous return" allegation enforcing the actions of Liens and Levys.

I do not understand what could possibly be "frivolous" about the return filed. Perhaps they find it inconvenient to consider the corrections I was forced to make when my payers issued legally incorrect 1099s. Am I required to accept their errors? Since incorporating the defective 1099s would likely yield a higher tax, I can see why a self-serving and over-zealous collection agency would prefer that citizens not challenge false documents overstating "income." However, it was necessary that I make the correction for the purposes of the "return" because I fully understand that the payers did not consider the legal import of reporting payments on a form (1099) not intended for their use. Further, I can only submit evidence under oath that I personally know to be true. I cannot be required (forced to confess) to incorporate anyone else's testimony in lieu of my own especially when I know it to be false.

"*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,*" as from the US SUPREME COURT CASE: **Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947).**

Answer this question – Then who is violating this law, and why?
Americans have a duty to hold their public servants accountable to the Rule of Law and to the limitations on their delegated authority.

Consequently, I hereby exercise my right to accurately ascertain whether someone is authorized in law to actually make the determination of "frivolity." I also exercise my right to accurately ascertain whom among them did actually make this determination, by law, of 'frivolity' over my return and I officially demand their name(s) and position title(s). The 60 plus different determination of frivolous returns (copy enclosed) do not fit my legible, accurate return for 2013 representing Private Enterprise earnings and not Federal income. Any documentation you may have to the contrary is "Bad Data" as established in their **Internal Revenue Manual, Part 4.2.2.4.4(E).**

" Yet someone charged me with a $5,000 penalty without even a signature as to the public servant whose responsible for this action. Please don't even try to bring up as a defense the previous correspondences sent to me. I replied to them within the proper time frame challenging and quashing those allegations with Rules of Law accompanying my last letter. Please establish their qualifications and that of the other persons for doing so, in performing actions outside their delegated authority. I highly suspect that this agent is not qualified , and in fact may be committing fraud (Gov. Code §6203(a)) or extortion under color of office :

1(Penal Code §518) by mailing 21 The Hobbs Act
defines "extortion" as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." 18 USC §1951(b)(2).

And let me close with why I am a person not subject to the determination of a Frivolous Return:

26 USC § 6671 - Rule for application of assessable penalties

(b) Person defined

The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

In reference to the illegal Lien and Levy actions – I once again include the Statue that limits the type of people upon whom the Secretary has power of them to perform the actions of Lien and Levy: **(BOLD LETTERS FOR EMPHASIS ONLY)**

TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 64 - COLLECTION
Subchapter D - Seizure of Property for Collection of Taxes
PART II - LEVY § 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.

Now Troy try and find the IRS's evidence that my job title reflects the titles with **bold letters** shown above. Hint- it doesn't exist.

Be advised that "includes" imports the class of people as defined in this Statute and none other. My reference for this importation of "class of people" is also attached to another 2 page document I am sending with this letter which adheres to the strict definition of words used and how they are to be understood within the Statutes and **not the use of our common understanding** of what we have been taught in Grade School and College, (hey I didn't write this stuff, but it's the LAW)

Sincerely,

George [redacted]

Encl: Document entitled: 26 U.S. Code § 3121 – Definitions
Copy of my 2015-1040 form.
Secretary's Notice 2010-33

III. *Discussion*

Positions that are the same as or similar to the following are frivolous.

(1) Compliance with the internal revenue laws is voluntary or optional and not required by law, including arguments that:

(a) Filing a Federal tax or information return or paying tax is purely voluntary under the law, or similar arguments described as frivolous in Rev. Rul. 2007-20, 2007-1 C.B. 863.

(b) Nothing in the Internal Revenue Code imposes a requirement to file a return or pay tax, or that a person is not required to file a tax return or pay a tax unless the Internal Revenue Service responds to the person's questions, correspondence, or a request to identify a provision in the Code requiring the filing of a return or the payment of tax.

(c) There is no legal requirement to file a Federal income tax return because the instructions to Forms 1040, 1040A, or 1040EZ or the Treasury regulations associated with the filing of the forms do not display an OMB control number as required by the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*, or similar arguments described as frivolous in Rev. Rul. 2006-21, 2006-1 C.B. 745.

(d) Because filing a tax return is not required by law, the Service must prepare a return for a taxpayer who does not file one in order to assess and collect tax.

(e) A taxpayer has an option under the law to file a document or set of documents in lieu of a return or elect to file a tax return reporting zero taxable income and zero tax liability even if the taxpayer received taxable income during the taxable period for which the return is filed, or similar arguments described as frivolous in Rev. Rul. 2004-34, 2004-1 C.B. 619.

(f) An employer is not legally obligated to withhold income or employment taxes on employees' wages.

(g) Only persons who have contracted with the government by applying for a governmental privilege or benefit, such as holding a Social Security number, are subject to tax, and those who have contracted with the government may choose to revoke the contract at will.

(h) A taxpayer may lawfully decline to pay taxes if the taxpayer disagrees with the government's use of tax revenues, or similar arguments described as frivolous in Rev. Rul. 2005-20, 2005-1 C.B. 821.

(i) An administrative summons issued by the Service is *per se* invalid and compliance with a summons is not legally required.

(2) The Internal Revenue Code is not law (or "positive law") or its provisions are ineffective or inoperative, including the sections imposing an income tax or requiring the filing of tax returns, because the provisions have not been implemented by regulations even though the provisions in question either (a) do not expressly require the Secretary to issue implementing regulations to become effective or (b) expressly require implementing regulations which have been issued.

(3) A taxpayer's income is excluded from taxation when the taxpayer rejects or renounces United States citizenship because the taxpayer is a citizen exclusively of a State (sometimes characterized as a "natural-born citizen" of a "sovereign state"), that is claimed to be a separate country or otherwise not subject to the laws of the United States. This position includes the argument that the United States does not include all or a part of the physical territory of the 50 States and instead consists of only places such as the District of Columbia, Commonwealths and Territories (*e.g.*, Puerto Rico), and Federal enclaves (*e.g.*, Native American reservations and military installations), or similar arguments described as frivolous in Rev. Rul. 2004-28, 2004-1 C.B. 624, or Rev. Rul. 2007-22, 2007-1 C.B. 866.

(4) Wages, tips, and other compensation received for the performance of personal services are not taxable income or are offset by an equivalent deduction for the personal services rendered, including an argument that a taxpayer has a "claim of right" to exclude the cost or value of the taxpayer's labor from income or that taxpayers have a basis in their labor equal to the fair market value of the wages they receive, or similar arguments described as frivolous in Rev. Rul. 2004-29, 2004-1 C.B. 627, or Rev. Rul. 2007-19, 2007-1 C.B. 843.

(5) United States citizens and residents are not subject to tax on their wages or other income derived from sources within the United States, as only foreign-based income or income received by nonresident aliens and foreign corporations from sources within the United States is taxable, and similar arguments described as frivolous in Rev. Rul. 2004-30, 2004-1 C.B. 622.

(6) A taxpayer has been untaxed, detaxed, or removed or redeemed from the Federal tax system though the taxpayer remains a United States citizen or resident, or similar arguments described as frivolous in Rev. Rul. 2004-31, 2004-1 C.B. 617.

(7) Only certain types of taxpayers are subject to income and employment taxes, such as employees of the Federal government, corporations, nonresident aliens, or residents of the District of Columbia or the Federal territories, or similar arguments described as frivolous in Rev. Rul. 2006-18, 2006-1 C.B. 743.

(8) Only certain types of income are taxable, for example, income that results from the sale of alcohol, tobacco, or firearms or from transactions or activities that take place in interstate commerce.

(9) Federal income taxes are unconstitutional or a taxpayer has a constitutional right not to comply with the Federal tax laws for one of the following reasons:

(a) The First Amendment permits a taxpayer to refuse to pay taxes based on religious or moral beliefs.

(b) A taxpayer may withhold payment of taxes or the filing of a tax return until the Service or other government entity responds to a First Amendment petition for redress of grievances.

(c) Mandatory compliance with, or enforcement of, the tax laws invades a taxpayer's right to privacy under the Fourth Amendment.

(d) The requirement to file a tax return is an unreasonable search and seizure contrary to the Fourth Amendment.

(e) Income taxation, tax withholding, or the assessment or collection of tax is a "taking" of property without due process of law or just compensation in violation of the Fifth Amendment.

(f) The Fifth Amendment privilege against self-incrimination grants taxpayers the right not to file returns or the right to withhold all financial information from the Service.

(g) The Ninth Amendment exempts those with religious or other objections to military spending from paying taxes to the extent the taxes will be used for military spending.

(h) Mandatory or compelled compliance with the internal revenue laws is a form of involuntary servitude prohibited by the Thirteenth Amendment.

(i) Individuals may not be taxed unless they are "citizens" within the meaning of the Fourteenth Amendment.

(j) The Sixteenth Amendment was not ratified, has no effect, contradicts the Constitution as originally ratified, lacks an enabling clause, or does not authorize a non-apportioned, direct income tax.

(k) Taxation of income attributed to a trust, which is a form of contract, violates the constitutional prohibition against impairment of contracts.

(l) Similar constitutional arguments described as frivolous in Rev. Rul. 2005-19, 2005-1 C.B. 819.

(10) A taxpayer is not a "person" within the meaning of section 7701(a)(14) or other provisions of the Internal Revenue Code, or similar arguments described as frivolous in Rev. Rul. 2007-22, 2007-1 C.B. 866.

(11) Only fiduciaries are taxpayers, or only persons with a fiduciary relationship to the United States are obligated to pay taxes, and the United States or the Service must prove the fiduciary status or relationship.

(12) Federal Reserve Notes are not taxable income when paid to a taxpayer because they are not gold or silver and may not be redeemed for gold or silver.

(13) In a transaction using gold and silver coins, the value of the coins is excluded from income or the amount realized in the transaction is the face value of the coins and not their fair market value for purposes of determining taxable income.

(14) A taxpayer who is employed on board a ship that provides meals at no cost to the taxpayer as part of the employment may claim a so-called "Mariner's Tax Deduction" (or the like) allowing the taxpayer to deduct from gross income the cost of the meals as an employee business expense.

(15) A taxpayer may purport to operate a home-based business as a basis to deduct as business expenses the taxpayer's personal expenses or the costs of maintaining the taxpayer's household when the maintenance items or amounts as reported do not correspond to a *bona fide*home business, such as when they are grossly excessive in relation to the conceivable costs for some portion of the home being used exclusively and regularly as a business, or similar arguments described as frivolous by Rev. Rul. 2004-32, 2004-1 C.B. 621.

(16) A "reparations" tax credit exists, including arguments that African-American taxpayers may claim a tax credit on their Federal income tax returns as reparations for slavery or other historical mistreatment, that Native Americans are entitled to an analogous credit (or are exempt from Federal income tax on the basis of a treaty), or similar arguments described as frivolous in Rev. Rul. 2004-33, 2004-1 C.B. 628, or Rev. Rul. 2006-20, 2006-1 C.B. 746.

(17) A Native American or other taxpayer who is not an employer engaged in a trade or business may nevertheless claim (for example, in an amount exceeding all reported income) the Indian Employment Credit under section 45A, which explicitly requires, among other criteria, that the taxpayer be an employer engaged in a trade or business to claim the credit.

(18) A taxpayer's wages are excluded from Social Security taxes if the taxpayer waives the right to receive Social Security benefits, or a taxpayer is entitled to a refund of, or may claim a charitable-contribution deduction for, the Social Security taxes that the taxpayer has paid, or similar arguments described as frivolous in Rev. Rul. 2005-17, 2005-1 C.B. 823.

(19) Taxpayers may reduce or eliminate their Federal tax liability by altering a tax return, including striking out the penalty-of-perjury declaration, or attaching documents to the return, such as a disclaimer of liability, or similar arguments described as frivolous in Rev. Rul. 2005-18, 2005-1 C.B. 817.

(20) A taxpayer is not obligated to pay income tax because the government has created an entity separate and distinct from the taxpayer—a "straw man"—that is distinguishable from the taxpayer by some variation of the taxpayer's name, and any tax obligations are exclusively those of the "straw man," or similar arguments described as frivolous in Rev. Rul. 2005-21, 2005-1 C.B. 822.

(21) A taxpayer may use a Form 1099-OID, *Original Issue Discount*, (or another Form 1099 Series information return) as a financial or other instrument to obtain or redeem (under a theory of "redemption" or "commercial redemption") a monetary payment out of the United States Treasury or for a refund of tax, such as by drawing on a "straw man" or similar financial account maintained by the government in the taxpayer's name (see paragraph (20), above); a taxpayer may file a Form 56, *Notice Concerning Fiduciary Relationship*, that names the Secretary of the Treasury or some other government employee as a fiduciary of the taxpayer and requires the Treasury Department to honor a Form 1099-OID as a financial or redemption

instrument; or similar arguments described as frivolous in Rev. Rul. 2005-21, 2005-1 C.B. 822, and Rev. Rul. 2004-31, 2004-1 C.B. 617.

(22) A taxpayer may claim on an income tax return or purported return an amount of withheld income tax or other tax that is obviously false because it exceeds the taxpayer's income as reported on the return or is disproportionately high in comparison with the income reported on the return or information on supporting documents filed with the return (such as Form 1099 Series, Form W-2, or Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*).

(23) Inserting the phrase "nunc pro tunc" on a return or other document filed with or submitted to the Service has a legal effect, such as reducing a taxpayer's tax liability, or similar arguments described as frivolous in Rev. Rul. 2006-17, 2006-1 C.B. 748.

(24) A taxpayer may avoid tax on income by attributing the income to a trust, including the argument that a taxpayer can put all of the taxpayer's assets into a trust to avoid income tax while still retaining substantial powers of ownership and control over those assets or that a taxpayer may claim an expense deduction for the income attributed to a trust, or similar arguments described as frivolous in Rev. Rul. 2006-19, 2006-1 C.B. 749.

(25) A taxpayer may lawfully avoid income tax by sending income offshore, including depositing income into a foreign bank account.

(26) A taxpayer can claim the section 44 Disabled Access Credit to reduce tax or generate a refund, for example, by purportedly having purchased equipment or services for an inflated price (which may or may not have been actually paid), even though it is apparent that the taxpayer did not operate a small business that purchased the equipment or services to comply with the requirements of the Americans with Disabilities Act.

(27) A taxpayer may claim a refund of tax based on purported advance payments to employees of the Earned Income Tax Credit as reported by the taxpayer on a filed Form 941, *Employer's Quarterly Federal Tax Return*, or other employment tax return that reports an amount of purported wages, tips, or other compensation but leaves other line items on the return blank (or with a zero as the amount).

(28) A taxpayer may claim the section 6421 fuels tax credit (such as on Form 4136, *Credit for Federal Tax Paid on Fuels*; Form 8849, *Claim for Refund of Excise Taxes*; or Form 1040) even though the taxpayer did not buy the gasoline or the gasoline was not used for an off-highway business use during the period for which the credit is claimed. Also, if the taxpayer claims an amount of credit that is so disproportionately excessive to any (including zero) business income reported on the taxpayer's income tax return as to be patently unallowable (*e.g.*, a credit that is 150 percent of business income reported on Form 1040) or facially reflects an impossible quantity of gasoline given the business use, if any, as reported by the taxpayer.

(29) A taxpayer is allowed to buy or sell the right to claim a child as a qualifying child for purposes of the Earned Income Tax Credit.

(30) An IRS Form 23C, *Assessment Certificate — Summary Record of Assessments*, is an invalid record of assessment for purposes of section 6203 and Treas. Reg. § 301.6203-1, the Form 23C must be personally signed by the Secretary of the Treasury for an assessment to be valid, the Service must provide a copy of the Form 23C to a taxpayer if requested before taking collection action, or similar arguments described as frivolous in Rev. Rul. 2007-21, 2007-1 C.B. 865.

(31) A tax assessment is invalid because the assessment was made from a section 6020(b) substitute for return, which is not a valid return.

(32) A statutory notice of deficiency is invalid because the taxpayer to whom the notice was sent did not file an income tax return reporting the deficiency or because the statutory notice of deficiency was unsigned or not signed by the Secretary of the Treasury or by someone with delegated authority.

(33) A Notice of Federal Tax Lien is invalid because it is not signed by a particular official (such as by the Secretary of the Treasury), or because it was filed by someone without delegated authority.

(34) The form or content of a Notice of Federal Tax Lien is controlled by or subject to a state or local law, and a Notice of Federal Tax Lien that does not comply in form or content with a state or local law is invalid.

(35) A collection due process notice under section 6320 or 6330 is invalid if it is not signed by the Secretary of the Treasury or other particular official, or if no certificate of assessment is attached.

(36) Verification under section 6330 that the requirements of any applicable law or administrative procedure have been met may only be based on one or more particular forms or documents (which must be in a certain format), such as a summary record of assessment, or that the particular forms or documents or the ones on which verification was actually determined must be provided to a taxpayer at a collection due process hearing.

(37) A Notice and Demand is invalid because it was not signed, was not on the correct form (*e.g.*, a Form 17), or was not accompanied by a certificate of assessment when mailed.

(38) The United States Tax Court is an illegitimate court or does not, for any purported constitutional or other reason, have the authority to hear and decide matters within its jurisdiction.

(39) Federal courts may not enforce the internal revenue laws because their jurisdiction is limited to admiralty or maritime cases or issues.

(40) Revenue Officers are not authorized to issue levies or Notices of Federal Tax Lien or to seize property in satisfaction of unpaid taxes.

(41) A Service employee lacks the authority to carry out the employee's duties because the employee does not possess a certain type of identification or credential, for example, a pocket commission or a badge, or it is not in the correct form or on the right medium.

(42) A person may represent a taxpayer before the Service or in court proceedings even if the person does not have a power of attorney from the taxpayer, has not been enrolled to practice before the Service, or has not been admitted to practice before the court.

(43) A civil action to collect unpaid taxes or penalties must be personally authorized by the Secretary of the Treasury and the Attorney General.

(44) A taxpayer's income is not taxable if the taxpayer assigns or attributes the income to a religious organization (a "corporation sole" or ministerial trust) claimed to be tax-exempt under section 501(c)(3), or similar arguments described as frivolous in Rev. Rul. 2004-27, 2004-1 C.B. 625.

(45) The Service is not an agency of the United States government but rather a private-sector corporation or an agency of a State or Territory without authority to administer the internal revenue laws.

(46) Any position described as frivolous in any revenue ruling or other published guidance in existence when the return adopting the position is filed with or the specified submission adopting the position is submitted to the Service.

Returns or submissions that contain positions not listed above, which on their face have no basis for validity in existing law, or which have been deemed frivolous in a published opinion of the United States Tax Court or other court of competent jurisdiction, may be determined to reflect a desire to delay or impede the administration of Federal tax laws and thereby subject to the $5,000 penalty.

The list of frivolous positions above will be periodically revised as required by section 6702(c).

IV. *Effective Date*

This notice is effective for submissions made and issues raised after April 7, 2010. For submissions made and issues raised between January 14, 2008 and April 7, 2010, Notice 2008-14 applies.

V. *Effect on Other Documents*

Notice 2008-14 is modified and superseded.

VI. *Drafting Information*

The principal author of this notice is Emily M. Lesniak, Office of the Associate Chief Counsel, Procedure and Administration. For further information, contact Emily M. Lesniak at 202-622-4940 (not a toll-free number).

1. U.S. Code › Title 26 › Subtitle C › Chapter 21 › Subchapter C › § 3121

26 U.S. Code § 3121 - Definitions

(a)WAGES For purposes of this chapter, the term "wages" means all remuneration for employment, iincluding the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term **shall not include**:

(b)EMPLOYMENT

For purposes of this chapter, the term "employment" means any service, of whatever nature, performed (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen or resident of the United States as an employee for an American employer (as defined in subsection (h)), or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act; except that such term **shall not include**—

(1)
service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2)
domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)

(A)
service performed by a child under the age of 18 in the employ of his father or mother;

(B)service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter;

1. U.S. Code › Title 26 › Subtitle F › Chapter 79 › § 7701

26 U.S. Code § 7701 - Definitions

(26)TRADE OR BUSINESS

The term "trade or business" includes **the performance of the functions of a public office**.

(c)INCLUDES AND INCLUDING
The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

The US Supreme Court has helpfully described the application of this tax law rule:

"[T]he verb "includes"imports a general class, some of whose particular instances are those specified in the defintion."

Helvering v Morgan's, Inc., 293 U.S. 121, 126 fn. 1 (1934);

"[I]ncluding.... ....connotes simple an illustrative application of the general principle."

Federal Land Bank of St. Paul V. Bismark Lumber Co., 314 U.S. 95, 62 S. Ct. 1 U.S.(1941)

as has the Treasury Department:

"The terms "includes and including" do not exclude things not enumerated which are inthe same general class."

This language was previously published as both 27 CFR 26.11 and 27 CFR 72.11 It not appears at 27 CFR 18.11, and at 27 CFR 447.11 with the addion of "or are otherwise within the scope thereof".

26 CFR Sect 7491(a)(1)

If any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

Policy never becomes law no mater how well used or well accepted. Policy never gains legal authority by usage. Hall v State 933 S.W.2d 363, 326 Ark. 318

If you fail to identify the statutorily defined elements you presume exists to reach the "frivolous" conclusion you propose, then you will have failed to state a claim upon which relief can be granted.

Keep in mind the well settled rule that the citizen is exempt from taxation unless the same is imposed in clear and unequivocal language, and that were the construction of a law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid. **Spreckles Sugar Refining Co. v. McClain, 192 US 397 (1904).**

"...if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer..." **Hassett v. Welch., 303 US 303, 314, (1938)**

26 USC §301.6671-1 Rules for application of assessable penalties [including "frivolous" return]: ***(b) Person defined- The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.***