

Dan Meador * P.O. Box 547 * Marland, Oklahoma 74644 * (580) 268-3422
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Freedom of Information Act Request

July 23, 2003

Robert A. Spiegel, Acting Disclosure Office
United States Department of the Treasury
Financial Management Service
Office of Legislative and Public Affairs
401 Fourteenth Street, SW, Room 553B
Washington, D.C. 20227



IDENTIFICATION: Dan Meador, [REDACTED]

AUTHORITIES: 5 U.S.C. § 552, 31 CFR Part 1 & 31 CFR Part 270

Dear Mr. Spiegel:

This request is being submitted to secure copies of forms, instructions, documents, memorandums of agreement and/or records relating to Financial Management Service employer authorization and authority delegated to the Internal Revenue Service. See page 345 of the U.S. Government Manual: "FMS is responsible for administering the world's largest collection system ... The Treasury Offset Program is one of the methods used to collect delinquent debts. FMS uses the program to withhold Federal payments, and Social Security benefits, to recipients with delinquent debts, including past-due child support obligations and Federal income tax debt."

I will begin with basic FOIA declarations:

1. Documents, forms, instructions, memoranda and other items being requested are adequately described to be easily located if they exist.
2. I attest that I have a material interest in the documents and/or records being requested so this request is exempt from 26 U.S.C. § 6103 restrictions.
3. In order to positively identify myself, I am having my signature notarized by a notary public who is commissioned by the state.
4. Response may be made and forms, instructions, documents, records, memorandums of agreement, etc., responsive to the requests should be sent to me at the postal delivery address listed in the heading of this request.
5. You have my firm promise, that upon your billing, I will pay the Treasury Financial Management Service a sum of up to \$250.00 for photocopying and other costs for location, originals and/or reproduction of the requested items. If the cost exceeds that amount please notify me in advance so I may make a determination as to priority of my expenditures.
6. I have a personal interest in the requested items, but will also use them in other forums where relevant and may distribute some items without charge to others who may request them. Certain items will likely be scanned into electronic format and may be posted for free distribution on Internet.

RATIONALE: This request arises from certain uncontested facts concerning

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application of customs and internal revenue laws of the United States classified in Titles 19, 21, 26 & 48 of the United States Code and administration prescribed in Titles 3, 4, 5, 19, 26, 31 & 48. Those facts include, but are not limited to the following: (1) Since implementation of the Internal Revenue Code of 1954, the Secretary of the Treasury has not established internal revenue districts in States of the Union, as required by 26 U.S.C. § 7621 and Executive Order #10289; (2) Congress did not legislatively create the Internal Revenue Service, as required by Article I § 8, clause 18 of the U.S. Constitution; (3) the Internal Revenue Service is not the delegate of the Secretary of the Treasury, as the term "delegate" is defined at 26 U.S.C. § 7701(a)(12)(A); (4) until 1996, the Inspector General, General Accounting Office, was general agent of the Treasury, but via two Public Laws enacted by the 104th Congress (see particularly P.L. 104-316), the Director of the Office of Management and Budget was charged with responsibility for settling accounts of the United States, whether owed by or to; (5) the Director has authority to delegate portions of his resolution authority, some of which has been delegated to the Fiscal Assistant Secretary and/or the Treasury Financial Management Service via one or more delegation instruments; and (6) the Fiscal Assistant Secretary and/or the Treasury Financial Management Service functions as delegate of the Secretary, for purposes of 26 U.S.C. § 7701(a)(12)(A), through one or more delegations of authority.

It appears that for purposes of Chapter 24 administration of the Internal Revenue Code, and administration of qualified state income taxes, the Fiscal Assistant Secretary is "delegate" of the Secretary of the Treasury, as defined by 26 U.S.C. § 7701(a)(12)(A), (See 31 CFR Part 215), and that the Financial Management Service simultaneously functions as delegate of the Director of OMB (See 31 U.S.C. §§ 3701, et seq.) and the Fiscal Assistant Secretary.

In this framework, the Internal Revenue Service provides certain ancillary or functionary services relative to administration of state and federal income and employment taxes in the primary context of Chapter 24 of the Internal Revenue Code, said chapter and piggybacking agreements requiring federal agencies to withhold income and employment taxes imposed by Subtitles A & C of the Internal Revenue Code and qualified state resident and nonresident income taxes from employee wages. IRS jurisdiction within States of the Union, even if colorable, is particularized in state-federal piggybacking agreements prescribed by 31 CFR Part 215.

In the meantime, FMS is responsible for certifying and thereby authorizing employers, as defined at 26 U.S.C. § 3401(d), to withhold from wages of employees, as defined at 26 U.S.C. § 3401(c), at the source, executing garnishments and the like through the Federal Administrative Offset Program prescribed by 31 U.S.C. § 3711(a)-3(d), and other duties imposed on the delegate of the Secretary of the Treasury and/or delegated by the Director of OMB.

Per § 3.0.258.4 (11/21/97) from the January 1999 edition of the Internal Revenue Manual, "Review of Form 8655", it appears that "Form 8655" may have been a typographical error as the Internal Revenue Service also has a Form 8655 used to designate third-party paymasters. However, recent telephone inquiries to FMS personnel suggest that there are other FMS forms and procedure necessary to authorize employers to withhold at the source, report sums withheld, etc. At any rate, the 1999 edition of the Internal Revenue Manual on CD suggests that the Financial Management Service must

authorize an "employer" to withhold taxes from employee wages prior to there being lawful authority to collect income and employment taxes at the source. This conclusion is further supported by 26 U.S.C. § 6301 vesting the Secretary with responsibility for collecting taxes imposed by internal revenue laws of the United States and the § 7805(a) requirement for authority to be properly delegated.

All items being requested are mandated by 3 U.S.C. § 301, 4 U.S.C. § 72, 5 U.S.C. §§ 301, 552(a), 552a & 5512-5520, 26 U.S.C. §§ 6001 & 7805(a), 31 U.S.C. §§ 3701 et seq., 44 U.S.C. §§ 1505, et seq., and/or other additional, supplemental and corresponding authorities.

If they are available, please send copies of the following forms, instructions, documents, memoranda, records, etc., and if they do not exist, in your response letter identify the specific request and verify that the requested items do not exist. Standard forms may be stamped "SAMPLE", "COPY", "DO NOT USE" or something comparable so long as the stamp does not obliterate writing on the form. If any portion or all of any form, instruction, document and/or other item is redacted or withheld, cite the authority that justifies omission and/or redaction.

All requests are predicated on the Fiscal Assistant Secretary and/or the Treasury Financial Management Service, by one or more delegations, being the delegate of the Secretary of the Treasury, as the term "delegate" is defined at 26 U.S.C. § 7701(a)(12)(A). For purposes of this request, geographical application is exclusively to States of the Union, thereby eliminating the "delegate" defined at 26 U.S.C. § 7701(a)(12)(B). Some of the documents, memoranda, etc., may be exempt from publication in the Federal Register by 5 U.S.C. § 301 & 44 U.S.C. § 1505(a), but such exclusion does not in and of itself warrant classification.

1. Provide a sample FMS Form 8655 used for Reporting Agent Authorization.
2. Provide instructions for the FMS Form 8655.
3. In the event FMS does not use Form 8655 for reporting agent authorization, provide the form or forms used to authorize reporting agents. (26 U.S.C. § 3403)
4. Provide instructions for the FMS form or forms used to authorize employers as reporting agents. (26 U.S.C. § 3403)
5. Provide FMS forms used to designate employer disbursement officers who are responsible for withholding income and employment taxes from wages. (26 U.S.C. § 3404)
6. Provide instructions for FMS forms used to designate employer disbursement officers.
7. Provide any additional FMS form used to authorize reporting agents and/or disbursement officers as withholding agents. (26 U.S.C. §§ 1441, et seq.)
8. Provide instructions for any additional FMS form used to authorize reporting agents and/or disbursement officers as withholding agents.
9. Provide the delegation of authority from the Fiscal Assistant Secretary to the Financial Management Service for administration of income and employment taxes within the context of Chapter 24 of the Internal Revenue Code.
10. Provide the delegation of authority from the Fiscal Assistant Secretary to the

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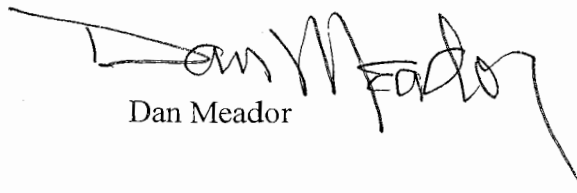
Financial Management Service for administration of state-federal piggybacking agreements authorized by 31 CFR Part 215.

11. Assuming the Fiscal Assistant Secretary has administrative responsibility for FMS, provide the delegation of authority from the Secretary of the Treasury to the Fiscal Assistant Secretary for administration of income and employment taxes in the context of Chapter 24 of the Internal Revenue Code.
12. Provide the memorandum of agreement, delegation of authority or other such device that authorizes FMS to administer the Federal Salary Offset Program (31 U.S.C. § 3711(a)-(d)) for voluntary garnishment to collect delinquent tax debts from government personnel.
13. Provide the memorandum of agreement, contract or other instrument that authorizes the Internal Revenue Service to provide ancillary or functionary services to, for or on behalf of FMS.
14. Provide the memorandum of agreement, contract or other instrument that specifies what ancillary or functionary services IRS is authorized to provide.
15. Provide the delegation of authority or other delegation instrument from FMS or the Fiscal Assistant Secretary to IRS that authorizes IRS to unilaterally issue administrative notices of lien and notices of levy, initiate civil and criminal investigations and/or initiate civil litigation for collection of delinquent income and employment tax debts within States of the Union.

If the Fiscal Assistant Secretary happens to be the chief administrative officer for the Treasury Financial Management Service, the above requests will be construed as applicable to the Fiscal Assistant Secretary.

The Administrative Procedures Act requires response within twenty calendar days from receipt of this request. If other Department of the Treasury officers or agencies other than the Internal Revenue Service are involved in the income and employment tax administration scheme, please forward applicable portions of this request to the bureau, agency or officer involved.

Regards,



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Notary Public

I certify that on the date set out below, Dan Meador, known to me, signed this Freedom of Information Act request.

My commission expires September 6, 2006.

Carol A. Maunt
Notary Public

July 23, 2003
Date

SEAL:

Signed in Noble County