

# ***REQUEST FOR IRS COLLECTION DUE PROCESS HEARING FORM INSTRUCTIONS***

Last revised: 7-1-2008

Source: <http://sedm.org>

## **1. PURPOSE OF THIS FORM**

- 1.1. This form is used to request a Collection Due Process Hearing prior to the IRS instituting enforcement or distraint actions against you pursuant to 26 U.S.C. §6331.
- 1.2. If you have questions about how to fill out or use this form, see the following article on our website:

*Handling and Getting a Collection Due Process Hearing*, Form #03.002

<http://sedm.org/Forms/FormIndex.htm>

## **2. PREPARATION INSTRUCTIONS:**

**WARNING!** We also caution any readers who may be “taxpayers” NOT to raise any of the following issues either during their request for a due process hearing or at the meeting itself, because they may be penalized up to \$5,000 for doing so pursuant to the following:

IRS Notice 2008-14: Frivolous Positions

<http://famguardian.org/Subjects/Taxes/FalseRhetoric/n-08-14.pdf>

We emphasize that only “nontaxpayers” not subject to the I.R.C. or any penalty may be members of our fellowship. If you want techniques for arguing your position correctly and consistent with both the above and with prevailing law, we strongly recommend carefully studying the following resources before your due process hearing:

1. *Flawed Tax Arguments to Avoid*, Form #08.003  
<http://sedm.org/Forms/FormIndex.htm>
2. *Rebutted Version of the IRS “The Truth About Frivolous Tax Arguments”*, Form #08.004  
<http://sedm.org/Forms/FormIndex.htm>
3. Memorandums of Law, SEDM Forms Page, Section 5  
<http://sedm.org/Forms/FormIndex.htm>
4. *The Great IRS Hoax*, Chapter 5  
<http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

- 2.1. This form is electronically fillable. If you have the free Adobe Acrobat Reader available at <http://adobe.com>, you can fill in all the fields and print it out. If you have the full version of Adobe Acrobat, you can also save the filled in form for later reuse. You can download the free Acrobat reader at:

<http://www.adobe.com/products/acrobat/readstep2.html>

- 2.2. If you haven’t already, read our article below, which describes how to develop an administrative record that will immunize you from unlawful enforcement actions:

*Techniques for Building a Good Administrative Record*, Form #09.008

<http://sedm.org/Forms/FormIndex.htm>

- 2.3. Download and fill out the following form according to the instructions and label as Enclosure 2:

*Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001

<http://sedm.org/Forms/FormIndex.htm>

- 2.4. Download and fill out the following form according to the instructions and label as Enclosure 3:

*Test for Federal Tax Professionals*, Form #03.009

<http://sedm.org/Forms/FormIndex.htm>

- 2.5. Download and fill out the following form according to the instructions and label as Enclosure 4:

*Demand for Verified Evidence of Lawful Federal Assessment*, Form #07.021

<http://sedm.org/Forms/FormIndex.htm>

- 2.6. Download and fill out the following form according to the instructions and label as Enclosure 5:

*Tax Form Attachment*, Form #04.013

<http://sedm.org/Forms/FormIndex.htm>

- 2.7. Fill in all blocks 1 through 3 of the form.

**NOTE:** Our Member Agreement indicates that you may NOT use a federal identifying number on any IRS form other than a corrected information return so please don't put any. For reasons why, see:

*Resignation of Compelled Social Security Trustee*, Form #06.002

<http://sedm.org/Forms/FormIndex.htm>

- 2.8. In block 4, fill in the tax years, forms, and penalties you are objecting to.

- 2.9. In block 7, fill in all the alternatives that apply. Ensure that they are consistent with the items you check in Enclosure (1).

- 2.10. Check all the attachments you want to include in Table 1.

- 2.11. Check all the things you object to in Enclosure (1).

- 2.12. Print the form.

- 2.13. Sign the form

- 2.14. Print the enclosures and attach them to the end of the form..

- 2.15. Mail the form using a Certificate of Service for proof of what you sent. Keep the original for your records and send the copy:

*Certificate/Proof/Affidavit of Service*, Form #01.005

<http://sedm.org/Forms/General/CertificateOfSvc.pdf>

### 3. **RESOURCES FOR FURTHER STUDY:**

- 3.1. *Nontaxpayer's Audit Defense Manual*, Form #06.001. Short book containing helpful tips in how to deal with an IRS audit.

<http://sedm.org/Forms/FormIndex.htm>

- 3.2. *IRS Due Process Meeting Handout*, Form #03.005. Use this form at the hearing in combination with the Enclosures attached.

<http://sedm.org/Forms/FormIndex.htm>

- 3.3. *Federal Enforcement Authority Within States of the Union*, Form #05.032. Proves that the IRS cannot lawfully penalize a person domiciled in a state of the Union who is not party to the franchise agreement codified in Subtitle A of the Internal Revenue Code.

<http://sedm.org/Forms/FormIndex.htm>

- 3.4. *"Taxpayer" v. "Nontaxpayer": Which One are You?*. Proves that the I.R.C. is a franchise agreement that is private law that only applies to those who explicitly or implicitly consent. Those who are parties to the agreement are called "taxpayers".

<http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm>

- 3.5. *Who are "taxpayers" and who needs a "Taxpayer Identification Number"*, Form #05.013

<http://sedm.org/Forms/FormIndex.htm>

- 3.6. *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017. Shows how the government abuses presumption to prejudice and destroy your constitutional rights. This is done mostly using the words of art that this form redefines in such a way that

they benefit rather than hurt you.  
<http://sedm.org/Forms/FormIndex.htm>

# Request for a Collection Due Process or Equivalent Hearing

Use this form to request a Collection Due Process (CDP) or equivalent hearing with the IRS Office of Appeals if you have been issued one of the following lien or levy notices:

- **Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320,**
- **Notice of Intent to Levy and Notice of Your Right to a Hearing,**
- **Notice of Jeopardy Levy and Right of Appeal,**
- **Notice of Levy on Your State Tax Refund- Notice of Your Right to a Hearing.**

Complete this form and send it to the address shown on your lien or levy notice. Include a copy of your lien or levy notice to ensure proper handling of your request.

Call the phone number on the notice or 1-800-829-1040 if you are not sure about the correct address or if you want to fax your request.

**You can find a section explaining the deadline for requesting a Collection Due Process hearing in this form's instructions. If you've missed the deadline for requesting a CDP hearing, you must check line 6 (Equivalent Hearing) to request an equivalent hearing.**

1. Print Name: \_\_\_\_\_

If a husband and wife owe the tax liability jointly, please print both names if both want a hearing.

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

2. Social Security Number or Numbers	SSN 1  _____	SSN 2  _____
--------------------------------------	--------------------	--------------------

Employer Identification Number \_\_\_\_\_

3. Daytime Telephone Number and Best Time to Call ( ) \_\_\_\_ - \_\_\_\_ \_\_\_\_\_  am.  pm.

4. Tax Information		
Type of Tax (Income, Employment, Excise, etc. or Civil Penalty)	Tax Form Number (1040, 941, 720, etc)	Tax Period or Periods

# Request for a Collection Due Process or Equivalent Hearing

5. Basis for Hearing Request (Both boxes can be checked if you have received both a lien and levy notice)

Filed Notice of Federal Tax Lien

Proposed Levy or Actual Levy

6. Equivalent Hearing (See the instructions for more information on Equivalent Hearings)

I would like an Equivalent Hearing - I would like a hearing equivalent to a CDP Hearing if my request for a CDP hearing is too late.

7. Check the most appropriate box for the reason you disagree with the filing of the lien or the levy. **See page 4 of this form for examples.** You can add more pages if you don't have enough space.

Collection Alternative

Installment Agreement

Offer in Compromise

Read and obey the law, not your LAME internal procedures that violate and do not reflect the WHOLE law. You are being used as a pawn to commit illegal acts documented herein and will be personally liable for a tort if you proceed further.

Correct FRAUDULENT information returns. See Enclosure (1), item 1

Abate unlawful penalties. See Enclosure (1), checked item 2

Abate unlawful Substitute For Returns (SFR). See Enclosure (1), checked Item 3.

Do not enforce against me because I am not the person described in 26 U.S.C. §6331(a). See Enclosure (1), checked item 4.

Read, rebut, and heed Enclosure (1) within 30 days or become the subject of a Bivens Act

Lien

Subordination

Discharge

Withdrawal

Please explain:

My Spouse is Responsible

Innocent Spouse Relief (Please Attach Form 8857, Request for Innocent Spouse Relief, to your request

Other

(Use as much space as you need to explain the reason for your request. Attach extra pages if necessary.)

Reason:

**CONDITIONS REQUIRED FOR CDP HEARING:**

1. I WILL NOT accept a phone conference. I want an in person Due Process Hearing. The location of the due process hearing MUST be within 40 miles of that indicated above.
2. I WILL NOT accept questions in advance about what I want to talk about and allow you to use my answers as an excuse to deny me this opportunity which the law REQUIRES you to provide to hold you accountable for your actions.
3. I will only talk to persons who present their U.S. passport and state issued ID. No IRS ID's or IRS pseudonyms (false names) are acceptable. Enclosure 5 explains why.
4. See attached form(s) listed below for reasons I disagree with this action:
5. I certify that I will not raise any of the issues addressed in any of the following and will focus the hearing entirely upon legal evidence in your possession, your delegated authority to perform a lawful assessment against me, and the constraints that the law and the IRM places upon your lawful authority.
  - 5.1. IRS The Truth About Frivolous Tax Arguments pamphlet.
  - 5.2. Frivolous Positions, IRS Notice 2008-14.

Anything contained in this submission or said at the due process hearing which is violative of the above is to be treated as non-factual, non-actionable speech protected by the First Amendment to the Constitution and not admissible as evidence pursuant to Fed.R.Ev. 610.

Table 1: Enclosures

Enclosure #	Title	# Pages	Included?
1	Facts Supporting Why Collection Action is Unauthorized and Therefore Illegal (see end)	2	Yes
2	<a href="#">Affidavit of Citizenship, Domicile, and Tax Status</a>	7	<input type="checkbox"/>
3	<a href="#">Test for Federal Tax Professionals</a>	38	<input type="checkbox"/>
4	<a href="#">Demand for Verified Evidence of Lawful Federal Assessment</a>	7	<input type="checkbox"/>
5	<a href="#">Tax Form Attachment</a>	6	<input type="checkbox"/>

SIGN HERE

I understand the CDP hearing and any subsequent judicial review will suspend the statutory period of limitations for collection action. I also understand my representative or I must sign and date this request before the IRS Office of Appeals can accept it.

Your Signature	Date
Spouse's Signature (if a joint request, both must sign)	Date

IRS Use Only		
IRS Employee (Print)	Employee Telephone Number	IRS Received Date

---

## Information You Need To Know When Requesting A Collection Due Process Hearing

---

### What Is the Deadline for Requesting a Collection Due Process (CDP) Hearing?

- Your request for a CDP hearing about a Federal Tax Lien filing must be postmarked by the date indicated in the *Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320* (lien notice).
- Your request for a CDP hearing about a proposed levy must be postmarked within 30 days after the date of the *Notice of Intent to Levy and Notice of Your Right to a Hearing* (levy notice).

Your timely request for a CDP hearing will prohibit levy action in most cases. A timely request for CDP hearing will also suspend the 10-year period we have, by law, to collect your taxes. Both the prohibition on levy and the suspension of the 10-year period will last until the determination the IRS Office of Appeals makes about your disagreement is final. The amount of time the suspension is in effect will be added to the time remaining in the 10-year period. For example, if the 10-year period is suspended for six months, the time left in the period we have to collect taxes will increase by six months.

You can go to court to appeal the CDP determination the IRS Office of Appeals makes about your disagreement.

### What Is an Equivalent Hearing?

If you still want a hearing with the IRS Office of Appeals after the deadline for requesting a CDP hearing has passed, you can use this form to request an equivalent hearing. You must check the Equivalent Hearing box on line 6 of the form to request an equivalent hearing. **An equivalent hearing request does not prohibit levy or suspend the 10-year period for collecting your taxes; also, you cannot go to court to appeal the IRS Office of Appeals' decision about your disagreement.** You must request an equivalent hearing within the following timeframe:

- Lien Notice-- one year plus five business days from the filing date of the Federal Tax Lien.
- Levy Notice-- one year from the date of the levy notice.

### Where Should You File Your CDP or Equivalent Hearing Request?

File your request by mail at the address on your lien notice or levy notice. You may also fax your request. Call the telephone number on the lien or levy notice to ask for the fax number. **Do not send your CDP or equivalent hearing request directly to the IRS Office of Appeals.**

### Where Can You Get Help?

You can call the telephone number on the lien or levy notice with your questions about requesting a hearing. The contact person listed on the notice or other representative can access your tax information and answer your questions.

In addition, you may qualify for representation by a low-income taxpayer clinic for a free or nominal charge. Our Publication 4134, *Low Income Taxpayer Clinic List*, provides information on clinics in your area.

If you are experiencing economic harm, the Taxpayer Advocate Service (TAS) may be able to help you resolve your problems with the IRS. TAS cannot extend the time you have to request a CDP or equivalent hearing. See page five of Publication 594, *The IRS Collection Process*, or visit [www.irs.gov/advocate/index.html](http://www.irs.gov/advocate/index.html). You also can call 1-877-777-4778 for TAS assistance.

**Note**— The IRS Office of Appeals will not consider frivolous requests. You can find examples of frivolous reasons for requesting a hearing or disagreeing with a tax assessment in Publication 2105, *Why do I have to Pay Taxes?*, or at [www.irs.gov/pub/irs-util/friv\\_tax.pdf](http://www.irs.gov/pub/irs-util/friv_tax.pdf)

You can get copies of tax forms, schedules, instructions, publications, and notices at [www.irs.gov](http://www.irs.gov), at your local IRS office, or by calling toll-free 1-800-TAX-FORM (829-3676).



---

## Information You Need To Know When Requesting A Collection Due Process Hearing

---

### What Are Examples of Reasons for Requesting a Hearing?

You will have to explain your reason for requesting a hearing when you make your request. Below are examples of reasons for requesting a hearing.

**You want a collection alternative-- "I would like to propose a different way to pay the money I owe."** Common collection alternatives include:

- Full payment-- you pay your taxes by personal check, cashier's check, money order, or credit card.
- Installment Agreement-- you pay your taxes fully or partially by making monthly payments.
- Offer in Compromise-- you offer to make a payment or payments to settle your tax liability for less than the full amount you owe.

**You want action taken about the filing of the tax lien against your property--** You can get a Federal Tax Lien released if you pay your taxes in full. You also may request a lien subordination, discharge, or withdrawal.

When you request **lien subordination**, you are asking the IRS to make a Federal Tax Lien secondary to a non-IRS lien. For example, you may ask for a subordination of the Federal Tax Lien to get a refinancing mortgage on your house. You would ask to make the Federal Tax Lien secondary to the mortgage, even though the mortgage came after the tax lien filing. The IRS Office of Appeals would consider lien subordination, in this example, if you used the mortgage proceeds to pay your taxes.

When you request a **lien discharge**, you are asking the IRS to remove a Federal Tax Lien from a specific property. For example, you may ask for a discharge of the Federal Tax Lien on your house to sell that property and use the sale proceeds to pay your taxes.

When you request a **lien withdrawal**, you are asking the IRS to remove the lien information from public records because you believe the Federal Tax Lien should not have been filed. For example, you may ask for a withdrawal of the filing of the Federal Tax Lien if you believe the IRS filed the lien prematurely or did not follow procedures or if a withdrawal will allow you to pay your taxes more quickly.

**Your spouse is responsible-- "My spouse (or former spouse) is responsible for all or part of the tax liability."** You may believe that your spouse or former spouse is the only one responsible for all or a part of the tax liability. If this is the case, you are requesting a hearing so you can receive relief as an innocent spouse. You should complete and attach Form 8857, *Request for Innocent Spouse Relief*, to your hearing request.

**Other Reasons-- "I cannot pay my taxes."** Some possible reasons why you cannot pay your taxes are: (1) you have a terminal illness or excessive medical bills; (2) your only source of income is Social Security payments, welfare payments, or unemployment benefit payments; (3) you are unemployed with little or no income; (4) you have reasonable expenses exceeding your income; or (5) you have some other hardship condition. The IRS Office of Appeals may consider freezing collection action until your circumstances improve.

**"I am not liable for (I don't owe) all or part of the taxes."** You can raise a disagreement about the amount you owe only if you did not receive a deficiency notice for the liability (a notice explaining why you owe taxes-it gives you the right to challenge in court, within a specific timeframe, the additional tax the IRS says you owe), or if you didn't have any other prior opportunity to disagree with the amount you owe.

**"I do not believe I should be responsible for penalties."** The IRS Office of Appeals may remove all or part of the penalties if you have a reasonable cause for not paying or not filing on time. Notice 433, *Interest and Penalty Information*, describes what are considered reasonable causes for removing penalties.

**"I have already paid all or part of my taxes."** You disagree with the amount the IRS says you haven't paid if you think you have not received credit for payments you have already made.

**See Publication 594, *The IRS Collection Process*, for more information on the following topics: Installment Agreements and Offers in Compromise-page 6; Lien Subordination, Discharge, and Withdrawal-page 8; Innocent Spouse Relief-page 4; Temporarily Delay Collection-page 6; and belief that tax bill is wrong-page 4.**



**ENCLOSURE 1: FACTS SUPPORTING WHY COLLECTION ACTION IS UNAUTHORIZED AND THEREFORE ILLEGAL**

This collection action is completely unauthorized, illegal, and improper because (check all that apply):

1. The information returns (Forms W-2, 1042s, 1098, 1099, K-1, 8300, etc.) upon which this assessment or collection are based are false and fraudulent. I am NOT engaged in the "trade or business" ([26 USC §7701\(a\)\(26\)](#)) excise taxable franchise and the people who filed these knowingly false reports LIED to you and/or refused to correct these false reports after being notified they were false. You have been notified of this fact and asked to both correct the false reports and criminally prosecute the perpetrators pursuant to [26 U.S.C. §§7206](#) and [7207, 18 U.S.C. §912](#). You have either refused or omitted to remedy this wrong, and thereby compelled me to involve in the criminal act of impersonating an "public officer" within the U.S. government in violation of [18 U.S.C. §912](#). I therefore wish to put an end to the criminal activities resulting from your willful omission in making the needed corrections to your records relating to these false reports and obtain evidence of why you won't fix these knowingly false and fraudulent reports at the due process hearing. See the following for details:

*The "Trade or Business" Scam*, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>

2. You imposed a penalty and I am not the "person" described in [26 USC §6671\(b\)](#) who is the only lawful subject of such a penalty.

[TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671](#)  
[§ 6671. Rules 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.***

The rules of statutory construction forbid you to assume or presume anything that is not expressly specified SOMEWHERE in the I.R.C. as being included in the definition above.

***"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.*** *Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated"); Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*  
[\[Stenberg v. Carhart, 530 U.S. 914 \(2000\)\]](#)

***"Expressio unius est exclusio alterius.*** *A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.*** *Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.*** *Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*  
*[Black's Law Dictionary, Sixth Edition, p. 581]*

I therefore want you to present any provision within the I.R.C. that proves that I consented to act as "*an officer or employee of a [federal] corporation, or a member or employee of a partnership*" consensually engaged as an agent of the federal government who therefore has the duty described in this section. It seems to me that the only way I could have entered into such an arrangement is by exercising my right to contract and I want you to produce the evidence that I consented to the contract.

3. I believe the assessment was in error and was definitely performed in violation of the Internal Revenue Code, the Internal Revenue Manual and the Treasury Regulations. I wish to obtain certified copies of any legal evidence you have to the contrary at the due process hearing, as allowed under [26 U.S.C. §6110](#): Public Inspection of Written Determinations. It is my intention to identify and prosecute the individual who performed the illegal assessment. Please ensure that the person is present at the due process hearing. See:

*Why the Government Can't Lawfully Assess Natural Persons With an Income Tax Liability Without Their Consent*,  
Form #05.011  
<http://sedm.org/Forms/FormIndex.htm>

4. You are about to institute a distraint proceeding and I do not satisfy the requirements in 26 U.S.C. §6331(a):

[TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331](#)  
[§ 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.

The rules of statutory construction forbid you to assume or presume anything that is not expressly specified SOMEWHERE in the I.R.C. as being included in the definition above.

**“Expressio unius est exclusio alterius.** A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.”  
[Black’s Law Dictionary, Sixth Edition, p. 581]

**“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.”**  
[Gould v. Gould, 245 U.S. 151 (1917)]

I therefore want you to present any provision within the I.R.C. that proves that I consented to act as **“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”** consensually engaged as a “PUBLIC OFFICER” of the federal government in receipt, custody, or control of public property subject to levy. I want you to produce at the hearing the written evidence proving that I ever knowingly or voluntarily connected my PRIVATE property to such a “PUBLIC OFFICE” and thereby made it subject to levy. Otherwise, this taking violates the Fourth Amendment takings clause because I never received just compensation required to exercise eminent domain over my property to convert it into a PUBLIC USE.

5. I am a victim of identity theft. I never consented to connect my PRIVATE earnings with a “public office”, a “public purpose”, a “public use”, a “trade or business” (“public office” pursuant to [26 USC §7701\(a\)\(26\)](#)) or to connect it to any federal identifying number which is also PUBLICLY PROPERTY pursuant to 20 CFR §422.103(d). Only I can lawfully do that and if YOU do it against my wishes, you are STEALING and engaging in conversion in criminal violation of [18 U.S.C. §654](#):

**“Surely the matters in which the public has the most interest are the supplies of food and clothing; yet can it be that by reason of this interest the state may fix the price at which the butcher must sell his meat, or the vendor of boots and shoes his goods? Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. That property which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.**  
[Budd v. People of State of New York, 143 U.S. 517 (1892)]

I am only mandatorily required to connect my PRIVATE activities to a federal number if I am consensually pursuing one of the franchises listed on IRS Form 1042s Instructions, and I was NOT engaged in any of these franchises during any of the reporting periods. Furthermore, 31 CFR §301.10 31 CFR §103.34(a)(3)(x) both say that nonresident aliens not engaged in the “trade or business” ([26 U.S.C. §7701\(a\)\(26\)](#)) franchise are **not** required to use public identifying numbers and I satisfy that criteria. Use of the number in connection with the related information returns, or in the context of this UNLAWFUL assessment, collection, or enforcement action was therefore not required, not voluntary, and COMPELLED against my will under the influence of duress in violation of [42 USC §408](#) and the Thirteenth Amendment prohibition of involuntary servitude:

**“An agreement [consent] obtained by duress, coercion, or intimidation is invalid, since the party coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to execute the agreement as the state of mind induced. Duress, like fraud, rarely becomes material, except where a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders the [Social Security] contract or conveyance voidable, not void, at the option of the person coerced, and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it. However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has no intention of doing so, is generally deemed to render the resulting purported contract void.”**  
[\[American Jurisprudence 2d, Duress, Section 21\]](#)

I seek information at the due process hearing proving you have authority to convert private property to a “public office” or to

associate it with said office without the consent of the subject using a de facto license number that can only be possessed or used by "public officers" on official business, which I am not.

6. I am not a "U.S. person" pursuant to [26 USC §7701\(a\)\(30\)](#) with a domicile or residence on federal territory, but rather a "nonresident alien" as defined in [26 USC §7701\(b\)\(1\)\(B\)](#) with no income "effectively connected with a trade or business in the United States" as defined in 26 CFR 1.871-1(b)(i) and [26 USC §7701\(a\)\(26\)](#). This is a civil enforcement proceeding which requires me to have a domicile or residence in the "[United States](#)" and I do not consensually maintain any such domicile or residence, nor may you compel me to nor PRESUME that I do without injuring my constitutionally protected rights. I am therefore a "[stateless person](#)", a "transient foreigner", and a nonresident protected by the [Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97](#). Me, my entire estate, and all my earnings are therefore considered a "foreign estate" as defined in [26 USC §7701\(a\)\(31\)](#). I would like to obtain certified copies of any legal evidence you have to the contrary at the due process hearing. For details, see and rebut: [Nonresident Alien Position](#), Form #05.020 <http://sedm.org/Forms/FormIndex.htm>
7. I am not the "person" named on your collection notice. I wish to obtain certified copies of any legal evidence you have to the contrary at the due process hearing.
8. I have repeatedly notified you of all the above via certified mail and you have completely ignored my correspondence and therefore legally defaulted to the facts stated in the correspondence. The facts you have admitted to by your failure to respond are indicated in Enclosures (2) and (3), which are attached. Because you use the same commercial default process in your [90 day Notice of Deficiency Letter \(Letter 3219 and 531DO\)](#), then I am entitled to institute the same process against you, because the Fourteenth Amendment guarantees me equal protection of the laws. This makes your present collection activity completely inconsistent with your actions, makes your willful avoidance of a known legal duty actionable, and subjects you and the assessment officer to a legal tort. I would like an explanation of why you continue to ignore your duty under the Constitution to respect my status as a "nontaxpayer" and a sovereign American.

According to the United States Supreme Court, no employee in the government can make an innocent person into a guilty person or STEAL from anyone, as you are attempting to do in this case:

*"In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that there were acts which the Federal and State legislatures could not do without exceeding their authority [from GOD!], and among them he mentioned a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that made a man judge in his own case; and a law that took the property from A [the worker], and gave it to B [the government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private [employment] contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain that a Federal or State legislature possesses such powers [of THEFT!] if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.' 3 Dall. 388." [\[Sinking Fund Cases, 99 U.S. 700 \(1878\)\]](#)*

By implication, no IRS employee has the authority to:

1. Declare a person a "taxpayer" who in fact is a "nontaxpayer". This would make an innocent person into a guilty person. You also can't do indirectly what you cannot do directly, which means that you can't PRESUME a person to be a "taxpayer" who doesn't first make themselves one by consenting to an assessment or filling out a "taxpayer" form which connects them to the "trade or business" franchise and "public office" in the government.

*Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. § 7701(a)(14)." (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the instant action. See 28 U.S.C. § 2201; see also Hughes v. United States, 953 F.2d 531, 536-537 (9th Cir. 1991) (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED. [Rowen v. U.S., 05-3766MMC. (N.D.Cal. 11/02/2005)]***

2. Apply the provisions of the Internal Revenue Code against "nontaxpayers". The code is private law and a "trade or business" franchise agreement that only applies to "taxpayers":

***"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."***

**"The distinction between persons and things within the scope of the revenue laws and those without is vital."**  
**[Long v. Rasmussen, 281 F. 236, 238(1922)]**

3. Disregard this request for a due process hearing from a "nontaxpayer", no matter how late, because the I.R.C. does NOT apply to "nontaxpayers" or constrain or govern the activities of anyone not subject to its jurisdiction.

I am a law abiding American domiciled and resident outside your civil jurisdiction and outside of federal territory. You have demonstrated that you and your employer:

1. Apply stricter or unequal rules of compliance to me than you apply to yourself.
2. Completely disregard the requirements of enacted statutes and regulations.
3. Enforce the requirements of civil law against persons not domiciled or resident on federal territory and not lawfully or consensually engaged in contracts or franchises that would confer extraterritorial jurisdiction.
4. Do not fulfill your mission statement in [IRM 1.1.1.1](#) to "Help Americas taxpayers understand and meet their tax obligations with integrity and fairness to all", because you do not help or even recognize the existence of "nontaxpayers" such as myself, even though the U.S. Supreme Court has acknowledged their existence in *South Carolina v. Regan*, 465 U.S. 367 (1984) and the I.R.C. itself recognizes them in [26 USC §7426](#).
5. Enforce the provisions of a "trade or business"/"public office" franchise codified in I.R.C. Subtitle A against those who clearly never qualified to occupy a "public office" within the U.S. government.
6. Verbally abuse and terrorize people who request the very help that the IRS Mission Statement obligates you to provide in "understanding and meeting their tax obligations".

In preparation for the CDP hearing, please ensure that:

1. Both you and the Assessment Officer who made the alleged unlawful assessment(s) against me bring your U.S. passport, state-issued, and IRS ID's.
2. You familiarize yourself with the requirements relating to presumptions so that you do not engage in any presumptions that would prejudice my constitutionally protected rights at the hearing, including any of the following. You will be asked to produce evidence on the record to substantiate each and every one of the following presumptions:
  - 2.1. That I am a "taxpayer" as defined in [26 U.S.C. §7701\(a\)\(14\)](#).
  - 2.2. That I am the "person" defined in [26 U.S.C. §6671\(b\)](#) or [26 U.S.C. §7343](#) or [26 U.S.C. §7701\(a\)\(1\)](#).
  - 2.3. That any of the following "words of art" have any meaning other than that specifically identified in the I.R.C. itself: "United States", "State", "income", "employee", "citizen", "resident". None of these words have anything in common with me and if you intend to presume otherwise, you will be asked for the provision in the I.R.C. that implies the specific thing you wish to include within the meaning.

**"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** *Meese v. Keene*, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); *Colautti v. Franklin*, 439 U.S. at 392-393, n. 10 ("As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated"); *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 502 (1945); *Fox v. Standard Oil Co. of N.J.*, 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, *Sutherland on Statutes and Statutory Construction* § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."  
[\[Stenberg v. Carhart, 530 U.S. 914 \(2000\)\]](#)

- 2.4. That I am a statutory "citizen of the United States" pursuant to [8 U.S.C. §1401](#). The term "United States" within federal statutes law and "United States" in the Constitution are two COMPLETELY DIFFERENT and mutually exclusive places, especially as regards citizenship. This is a product of the Separation of Powers Doctrine that is there for the protection of my rights. Come prepared to answer questions about WHICH of the three "United States" you mean within [Hooven & Allison Co. v. Evatt, 324 U.S. 652 \(1945\)](#) every time you use that term at the hearing:

**"The 1<sup>st</sup> section of the 14<sup>th</sup> article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[\*\*\*], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[\*\*\*\*] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[\*], were not [constitutional] citizens."**  
*[Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]*

The following documents is must reading in order to ensure you don't abuse presumption at the hearing. If you violate this document, the penalty shall be \$10,000 for each occurrence.

[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction](#), Form #05.017  
<http://sedm.org/Forms/FormIndex.htm>

3. You review these materials prior to the hearing and come prepared with the evidence requested.
4. Review the government flawed arguments contained in Section 5 of the following documents so you don't raise any of these flawed arguments at the hearing. If you raise any of the arguments in the following document, then you agree to pay all the penalties you attempt to assess me PLUS \$10,000 per argument. The people cannot delegate to the government an authority that they

themselves do not also have, including the right to penalize:

*Flawed Tax Arguments to Avoid*, Form #08.004

<http://sedm.org/Forms/FormIndex.htm>

5. You come to the CDP hearing with a signed copy of Enclosure (4) (if included) and all supporting evidence, which is a request pursuant to the [Fair Debt Collection Practices Act](#) and the [Freedom of Information Act, 5 USC §552](#) for verified evidence signed under penalty of perjury of a lawful assessment.

In strict accordance with [26 USC §7521\(a\)](#) and [Internal Revenue Manual section 4.10.3.2.6](#), the meeting will be tape recorded and a court reporter and/or witnesses may also be present.

When you have proved your case with evidence, as required by [26 USC §6110](#) and by rebutting the information contained herein and previous correspondence that you have habitually ignored in violation of the law, I shall be happy to cooperate fully with you in paying the amount you say I owe.

**ADDITIONAL ENCLOSURE(S)**

Additional enclosures begin on the next page. These enclosures are identified in Table 1 earlier.