EFFECTIVE DATE

(08-12-2019)

PURPOSE

(1) This transmits revised 25.5.6, *Summons, Summonses on Third-Party Witnesses.*

MATERIAL CHANGES

(1) IRM 25.5.6.1.2(3), updated delegation order IRM number to new numbering.

(2) IRM 25.5.6.1.3, updated delegation order IRM number to new numbering.

(3) IRM 25.5.6.1.3(2), added that manager approval is not required for a third-party summons issued by a special agent.

(4) IRM 25.5.6.1.6(2), updated Acronyms table.

(5) IRM 25.5.6.1.7(1), removed reference to IRM 25.5.11 which is obsolete and replaced by IRM 4.26.8, Bank Secrecy Act, Special Procedures.

(6) IRM 25.5.6.1.7(3), added information on TBOR.

(7) IRM 25.5.6.1.7(4), added reference to the Summons Knowledge Base.

(8) IRM 25.5.6.2(1)c), clarified premature examination of summoned records.

(9) IRM 25.5.6.2(2), added guidance to consult Counsel when a witness invokes fifth amendment claim.

(10) IRM 25.5.6.3.1, reworded and formatted the section for easier reading.

(11) IRM 25.5.6.3.1.2(1), clarified that a summons in regards to a married couple should not be treated as a third-party summons for the purpose of assessment or criminal statute suspensions.

(12) IRM 25.5.6.3.2(1), added reference to IRC 7603.

(13) IRM 25.5.6.3.2.1(1), removed the Note regarding using pre-2010 IRS summons form.

(14) IRM 25.5.6.3.2.1(3), added reference to IRM 25.5.3.2.

(15) IRM 25.5.6.3.3(1), added “or organized business records.”

(16) IRM 25.5.6.3.3(2), removed outdated term, telegraph records.

(17) IRM 25.5.6.3.5(1), added reference to 26 CFR 301.7609-2(b)(3).

(18) IRM 25.5.6.4.1(2), in the Note, clarified why listing more than one taxpayer in the caption of the summons is improper. Also, removed the sentence regarding the transactional relationship test.

(19) IRM 25.5.6.4.1(4), replaced the word “vitiate” with “undermine” for clarity.

(20) IRM 25.5.6.5(2)d), removed the paragraph regarding warning the summoned party that he may be held in contempt if he notifies the taxpayer.

(21) IRM 25.5.6.6.2(4), removed redundant reference to Exhibit 25.5.6-1 for Form 14465.

(22) IRM 25.5.6.6.3(2)(b), added a reference to IRM 25.5.6.6.3.2.

(23) IRM 25.5.6.6.3.4(3), removed redundant reference to Exhibit 25.5.6-3 for Letter 4432.

(24) IRM 25.5.6.6.4(1), included Form 2039 Part E for a designated or related summons, included guidance to mail notice to the authorized representative, and added Note about the return receipt not required.

(25) IRM 25.5.6.6.4(3), added guidance for field collection to use ICS to document service of summons and how notification was given. Also, removed the note regarding using a pre-2010 summons form.

(26) IRM 25.5.6.6.4(5) and (6), merged the two paragraphs regarding the certification of the summons, and clarified the purpose of the summons certification page.

(27) IRM 25.5.6.6.5(1), removed redundant Exhibit 25.5.6-1 for Form 14465. Also, added instructions to modify “Signature of Taxpayer” to “Signature of Noticee” for a noticee other than the taxpayer.

(28) IRM 25.5.6.6.6(3)b), clarified in the note, that court order is for the production of records or the giving of testimony.

(29) IRM 25.5.6.6.7(1), added guidance to make requests to the court for the exemption from the requirement of notice if all witnesses are found in the applicable judicial district.

(30) IRM 25.5.6.6.7.2(3), clarified that TFRP is for persons responsible for the unpaid trust fund taxes.

(31) IRM 25.5.6.7.2(2), reworded paragraph for clarity.

(32) IRM 25.5.6.10.2(2)a, replaced “Coordinated Examination Program” with “Large Corporate Compliance Program.”

(33) IRM 25.5.6.10.4(2), removed the Note regarding new summons rules.

(34) Exhibit 25.5.6-1, removed exhibit since Form 14465 is in the forms repository.

(35) Exhibit 25.5.6-2 is renumbered to Exhibit 25.5.6-1.

(36) Exhibit 25.5.6-3, removed exhibit since Letter 4432 is in the forms repository.

(37) Throughout IRM, replaced “examiner” with “IRS employee” since this IRM is used by all IRS employees authorized to issue a summons. Also, replaced “the Service” with “the IRS.”

(38) The revision to this IRM section includes editorial changes, formatting, and IRM reference corrections throughout.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 25.5.6 dated March 10, 2017.

AUDIENCE

All Operating Divisions and Functions.

Nikki C. Johnson
Director, Collection Policy
Small Business Self Employed

25.5.6
Summonses on Third-Party Witnesses

Table of Contents

25.5.6.1 Program Scope and Objectives
25.5.6.1.1 Background
25.5.6.1.2 Authority
25.5.6.1.3 Responsibilities
25.5.6.1.4 Program Management
25.5.6.1.5 Program Controls
25.5.6.1.6 Definitions and Acronyms
25.5.6.1.7 Related Resources
25.5.6.2 General
25.5.6.3 Definitions
25.5.6.3.1 Summons Subject to IRC 7609 Third-Party Notice and Waiting Period Requirements
25.5.6.3.1.1 Identifying Third-Party Summonses
25.5.6.3.1.2 Summons Served to Examine a Married Person's Joint Return
25.5.6.3.1.3 Summons Served on an Officer, Employee or Other Representative of an Entity
25.5.6.3.1.4 TEFRA Proceedings: Summons Served on a Partner or Member in an Individual Capacity, Not as the Representative of the TEFRA Entity
25.5.6.3.2 Third-Party Recordkeeper
25.5.6.3.2.1 Service on a Third-Party Recordkeeper
25.5.6.3.3 Records
25.5.6.3.4 John Doe Summons
25.5.6.3.5 Numbered Bank Account
25.5.6.3.6 Proceeding to Quash
25.5.6.3.7 Intervention
25.5.6.3.8 Noticee
25.5.6.3.9 Date of Service of Notice
25.5.6.4 Statutory Requirements for Third-Party Summonses
25.5.6.4.1 Procedures for Summonses Issued to Investigate Liabilities for the Trust Fund Recovery Penalty
25.5.6.5 Exceptions to Notice Requirements
25.5.6.5.1 Scope of the Exception for Summonses Issued in Aid of Collection
25.5.6.5.2 Sharing Information Obtained by a Collection Summons With IRS Personnel Conducting Examinations or Criminal Investigations
25.5.6.6 Procedures for Notice, Petition to Quash the Summons, and Compliance or Enforcement
25.5.6.6.1 Period in Which Service Is Required To Give Notice
25.5.6.6.2 Right to File Petition to Quash Summons
25.5.6.6.3 Compliance or Enforcement of Summons

25.5.6.6.3.1 Collection
25.5.6.6.3.2 Suspension of the Periods of Limitation When a Summoned Third Party Fails to Fully Comply for 6 Months After Service With a Summons
25.5.6.6.3.3 Determination of Final Resolution
25.5.6.6.3.4 Contemporaneous Documentation Requirement
25.5.6.6.4 Notice and Instructions to Noticee, Third-Party Summons
25.5.6.6.5 Waiver of Right to Notice and To Petition to Quash the Summons
25.5.6.6.6 Duty and Rights of a Summoned Third Party
25.5.6.6.7 Coordination of Summons Issuance and Enforcement Actions
25.5.6.6.7.1 Examination and TE/GE
25.5.6.6.7.2 Indian Tribal Government
25.5.6.7 Banks
25.5.6.7.1 Foreign Branches of Domestic Banks
25.5.6.7.2 Domestic Branches of Foreign Banks
25.5.6.8 Summonses for Foreign Records of Corporate Slush Funds
25.5.6.9 Records of Foreign Companies
25.5.6.10 Software Trade Secret Protection Under IRC 7612
25.5.6.10.1 Conditions For Summoning a Source Code
25.5.6.10.2 Safeguards to Ensure Protection of Trade Secrets and Other Confidential Information
25.5.6.10.3 Definitions
25.5.6.10.4 Effective Date
25.5.6.10.5 Miscellaneous
25.5.6.11 Summonses Served On an Educational Institution
25.5.6.12 Information From Federal Officials and Employees

Exhibits

25.5.6-1 Sample Language for a Letter For Limiting a Response for Records for Multiple Potentially-Responsible Persons

25.5.6.1
(03-10-2017)
Program Scope and Objectives

(1) The Summons Handbook provides guidelines for all Internal Revenue Service (IRS) functions in one multifunctional handbook.

(2) *Purpose*: This IRM provides instructional procedures relating to summonses issued to third-party witnesses.

(3) *Audience*: All employees authorized to issue or approve a summons to a third-party witness.

(4) *Policy Owner*: Director, Collection Policy.

(5) *Program Owner*: Collection Policy Headquarters, an organization within the Small Business/Self-Employed (SB/SE) division.

(6) *Primary Stakeholders*: Employees who require testimony or the production of records from a third-party witness.

(7) *Program Goals*: Provide guidance and procedures relating to summonses issued to third-party witnesses.

25.5.6.1.1
(03-10-2017)
Background

(1) A third-party summons is a summons directed to a person other than the person with respect to whose liability or return the summons is issued, or any officer or employee of such person. See IRM 25.5.6.3.1, *Summons Subject to IRC 7609 Third-Party Notice and Waiting Period Requirements*, for help identifying third-party summonses.

25.5.6.1.2
(08-12-2019)
Authority

(1) IRC 7602 provides the IRS with summons authority. See IRM 5.17.6.1.2.1, *Statutory Authority.*

(2) IRC 7609 provides the IRS with special procedures for third-party summonses.

(3) *Delegation Order 25-1*, provides the levels of authority delegated to various IRS employees to approve and perform activities concerning summonses. See IRM 1.2.2, **Servicewide Delegation Orders.**

25.5.6.1.3
(08-12-2019)
Responsibilities

(1) Paragraph (9) in *Delegation Order 25-1*, lists the employees delegated to issue a summons. See IRM 1.2.2, **Servicewide Delegation Orders.**

(2) The approval of the issuing officer's manager, or any supervisory official above that level, is required on a summons to a third party witness, except that such approval is not required for a third-party summons issued by a special agent. See paragraph (8) in *Delegation Order 25-1*. The approval is evidenced by the supervisor's signature on the summons, or by a statement on the summons, signed by the issuing officer, that he or she had prior authorization to issue the summons and stating the name and title of the authorizing official and date of authorization.

25.5.6.1.4
(03-10-2017)
Program Management

(1) In general, the IRS should issue summonses only when the taxpayer (or other witness) will not produce the desired records or other information voluntarily. A summons is specific to each case. There are no program reports that track summonses to third-party witnesses.

25.5.6.1.5
(03-10-2017)
Program Controls

(1) The IRS employee who issued the summons keeps a copy of the original summons, Page 1 of the summons labelled "Original." The original summons is needed when referring a summons for enforcement. See IRM 25.5.10, *Enforcement of Summons*.

25.5.6.1.6
(08-12-2019)
Definitions and Acronyms

(1) Definitions pertaining to summonses served on third-party witnesses can be found in IRM 25.5.6.3, *Definitions*.

(2) The table below lists commonly used acronyms and their definitions.

Acronyms

Acronym	Definition
AIMS	Audit Information Management Systems
BAL DUE	Balance Due Account
ATAT	Abusive Tax Avoidance Transactions
CI	Criminal Investigation
DEL RET	Delinquent Return Investigation
DOJ	Department of Justice
FERPA	Family Educational Rights and Privacy Act
ICS	Integrated Collection System
IDR	Information Document Request
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ITG	Indian Tribal Government
LB&I	Large Business and International
RFPA	Right to Financial Privacy Act
RRA 98	Restructuring and Reform Act of 1998
SB/SE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
SEC	Securities and Exchange Commission
TEFRA	Tax Equity and Fiscal Responsibility Act
TE/GE	Tax Exempt and Government Entities

Acronym	Definition
TFRP	Trust Fund Recovery Penalty
U.S.C.	United States Code
U.S.C.A.	United States Code Annotated
W&I	Wage and Investment

25.5.6.1.7
(08-12-2019)
Related Resources

(1) IRM 25.5, *Summons*, provides guidelines for all IRS functions in one multifunctional handbook. The sections are:

- IRM 25.5.1, *Introduction*
- IRM 25.5.2, *Preparation*
- IRM 25.5.3, *Procedures*
- IRM 25.5.4, *Examination of Books and Witnesses*
- IRM 25.5.5, *Summons for Taxpayer Records and Testimony*
- IRM 25.5.6, *Summonses on Third-Party Witnesses*
- IRM 25.5.7, *Special Procedures for John Doe Summonses*
- IRM 25.5.8, *Use of Summons Special Applications*
- IRM 25.5.9, *Fees and Costs for Summoned Witnesses*
- IRM 25.5.10, *Enforcement of Summons*

(2) The basic legal concepts governing the use and enforcement of administrative summonses can be found in IRM 5.17.6, *Legal Reference Guide for Revenue Officers, Summonses*.

(3) The Taxpayer Bill of Rights (TBOR) lists rights that already exist in the tax code, putting them in simple language and grouping them into 10 broad categories. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), *Execution of Duties in Accord with Taxpayer Rights*. For additional information about the TBOR, see *https://www.irs.gov/taxpayer-bill-of-rights*, and Policy Statement 1-236 in IRM 1.2.1, *Servicewide Policy Statements*.

(4) Additional summons guidance can be found on the Summons Knowledge Base, *https://portal.ds.irsnet.gov/sites/vl053/pages/default.aspx*.

25.5.6.2
(08-12-2019)
General

(1) The IRS must follow the notice and waiting period requirements described below for all third-party summonses (except for the particular types described in IRC 7609(c)(2)(B)-(E) and (c)(3) and discussed in IRM 25.5.6.5, *Exceptions to Notice Requirements,* of this handbook):

a. The IRS must give notice to the taxpayer identified in the heading of the summons (and as a courtesy, to the taxpayer's authorized representative) and to any other person identified in the description of summoned records.
b. The date for compliance of the summoned party is no sooner than 23 full days after the date notice is given to the taxpayer and to any other person entitled to notice.
c. IRC 7609(d)(1) prohibits premature examination by the IRS of the records at issue, not physical acceptance. Unless the taxpayer and all other noticees waive in writing the 23 day waiting period, the records cannot be

accepted until the 24th day after the date of notice, and only if no person entitled to notice brought a timely proceeding to quash.

Note: Occasionally a summoned third party, such as a bank, will mail the summoned records to the IRS before the 23 day period expires. In that case, the IRS employee must not examine the records; the records should be sealed in a box or envelope and must not be examined until the 23 day period expires without a timely petition to quash being filed. Also, on rare occasions, the 23 day waiting period may expire before the IRS employee receives notice that the taxpayer or other noticee has filed a timely petition to quash the third-party summons. If the IRS employee has already begun reviewing the summoned records, the employee should stop the review immediately and seal the summoned records, noting the date and time on which the seal occurred. The records should not be accessed until the summons litigation process is concluded.

(2) A third party need only produce a summoned document if the document is in his or her possession, custody, or control, and if the summons complies with all legal requirements. The witness may claim his or her individual right against self-incrimination. Consult Counsel when a witness invokes a fifth amendment claim to the production of records. Summoned persons who conceal records and falsely state that they have been stolen may be prosecuted under 18 U.S.C. 1001 (false statements) and 18 U.S.C. 1503 (obstructing justice).

(3) If the summons was served on a third-party witness, the taxpayer and any other person entitled to notice can bring a proceeding to quash the summons (subject to the exceptions discussed in IRM 25.5.6.5, *Exceptions to Notice Requirements*). In that proceeding, the taxpayer (or other noticee) can challenge the validity of the summons or assert privileges against production.

(4) The 10 day waiting period provided by IRC 7605(a) still applies to those narrow categories of third-party summonses (described in IRM 25.5.6.5) that are excepted from the notice requirements and 23 day waiting period required by IRC 7609(a)(1). The 10 day waiting period is for the benefit of the person to whom the summons is directed. The taxpayer has no standing to object to a waiver of this provision.

25.5.6.3
(04-30-1999)
Definitions

(1) The following definitions pertain to summonses served on third-party witnesses.

25.5.6.3.1
(08-12-2019)
Summons Subject to IRC 7609 Third-Party Notice and Waiting Period Requirements

(1) **Summons** – a summons subject to IRC 7609 third-party requirements is an administrative summons issued under IRC 7602(a)(2) , IRC 6420(e)(2) , IRC 6421(g)(2) , IRC 6427(j)(2) or, IRC 7612 , which is not described in any of the exceptions found in IRC 7609(c)(2) -(3) and that requires:

a. testimony on or relating to the taxpayer or other noticee, or
b. the production of any portion of records made or kept on or relating to any person who is identified in the summons (other than the summoned third party), or
c. the production of any computer software source code with respect to the taxpayer or other noticee (defined in IRC 7612(d)(2).)

25.5.6.3.1.1
(09-04-2014)
Identifying Third-Party Summonses

(1) Notice procedures apply to almost all third-party summonses issued for an examination purpose. Therefore, the IRS must accurately distinguish third-party summonses from those served on a taxpayer. In most situations, this distinction is obvious. However, it is less obvious in at least three circumstances: those involving married couples who file joint returns; those involving employees, corporate officers, partners, and others who are summoned in a representative capacity; and those involving Tax Equity and Fiscal Responsibility Act (TEFRA) entities in which a summons is captioned "In the matter of" the TEFRA entity and is served on a partner or member in an individual capacity, not as the representative of the TEFRA entity (see below). For more information on TEFRA entities refer to IRM 4.31.1, *Pass-Through Entity Handbook, Introduction,* and IRM 4.31.2, *TEFRA Examinations -- Field Office Procedures.*

25.5.6.3.1.2
(08-12-2019)
Summons Served to Examine a Married Person's Joint Return

(1) When the IRS examines the correctness of a married couple's jointly filed return to determine if additional tax is owed and the IRS employee must summon information from one of the married taxpayers, the IRS must treat such a summons as a third-party summons and give notice to the other spouse. However, these summonses should not be treated by the Service as third-party summonses for purposes of any assessment or criminal statute suspensions under IRC 7609(e), nor for any cost reimbursements under IRC 7610(a)(2).

(2) If only one spouse is summoned, the other spouse should be provided notice under IRC 7609(a) as a person identified in the summons. Even when both spouses are summoned (by issuing and serving separate summonses), each spouse should be provided notice of the other's summons. This procedure preserves each spouse's opportunity to move to quash the summons served on his or her spouse and/or claim his or her individual right against self-incrimination.

Note: Summonses are treated and drafted differently when they are served to investigate the separate liabilities of married persons who failed to file a return for a year being investigated (i.e., a delinquent return investigation). They should not be captioned in the names of both the Taxpayer-Husband and Taxpayer-Wife because the married couple did not file a joint return. Instead, *separate summonses should be issued for each person*, and they should be captioned "In the matter of Taxpayer-Husband" and "In the matter of Taxpayer-Wife," respectively.

Moreover, these summonses are not third-party summonses if they are directed to the taxpayer identified in the caption of the summons. Thus, a summons captioned "In the matter of Taxpayer-Wife" and directed to the Taxpayer-Wife is not a third-party summons, and no notice should be given to the Taxpayer-Husband, even if he is identified in the description of summoned records.

25.5.6.3.1.3
(09-04-2014)
Summons Served on an Officer, Employee or Other Representative of an Entity

(1) When the IRS is examining an entity (such as a corporation or partnership) and the IRS summons officers or employees, or other individuals as representatives of the entity, those summonses are excepted from the third-party summons procedures by IRC 7609(c)(2)(A). Therefore, the 23 day waiting period and the notice requirement of IRC 7609(a) do not apply to such summonses.

Note: When directing any summons to an individual as the representative of a partnership, the IRS should specify in the summons that the individual is being summoned in a representative capacity, e.g., "To Michael J. Smith, Tax Matters Partner, ABC Partnership."

25.5.6.3.1.4
(09-04-2014)
TEFRA Proceedings: Summons Served on a Partner or Member in an Individual Capacity, Not as the Representative of the TEFRA Entity

(1) A summons issued in a TEFRA proceeding and served on a partner in the partner's individual capacity, not as the representative of the TEFRA entity, is treated as a third-party summons to which the notice and waiting period requirements of IRC 7609 apply. The TEFRA entity identified in the caption of the summons and every person identified in the description of the summoned records must be given notice of the summons, and all such persons are entitled to petition to quash.

25.5.6.3.2
(08-12-2019)
Third-Party Recordkeeper

(1) A third-party recordkeeper is defined in IRC 7603(b)(2) as:

a. Any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under federal or state law, any bank (as defined in IRC 581), or any credit union (within the meaning of IRC 501(c)(14)(A));
b. Any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));
c. Any person extending credit through the use of credit cards or similar devices;
d. Any broker (as defined in section 3(a)(4) of the Securities Exchanges Act of 1934 (15 U.S.C. 78c(a)(4));
e. Any attorney;
f. Any accountant;
g. Any barter exchange (as defined in IRC 6045(c)(3);
h. Any regulated investment company (as defined in IRC 851) and any agent of such regulated investment company when acting as an agent thereof;
i. Any enrolled agent; and
j. Any owner or developer of a computer software source code (as defined in IRC 7612(d)(2)), but only if the summons requires the production of the source code or the program and data described in IRC 7612(b)(1)(A)(ii) to which the source code relates.

Note: As stated throughout this chapter, the IRS is required to follow the notice and waiting period requirements with all third-party summonses, except for those enumerated in IRC 7609(c)(2)-(3). The third-party recordkeeper definition signifies a unique class of summonses that may be served by certified or registered mail. It also identifies the only group of third-party summonses for which a Special Agent must observe the notice and waiting period requirements of IRC 7609(a).

25.5.6.3.2.1
(08-12-2019)
Service on a Third-Party Recordkeeper

(1) As stated above, third-party recordkeepers can be served with a summons by registered or certified mail pursuant to IRC 7603(b), as well as by delivery in hand and the other traditional methods of service permitted by IRC 7603(a) and discussed in IRM 25.5.3, *Summons, Procedures.*

(2) If it is unclear as to whether a summoned party falls within the definition of *third-party recordkeeper*, seek the advice of Associate Area Counsel.

(3) A summons to a third party who is not a third-party recordkeeper, as defined in IRM 25.5.6.3.2(1) above, must be served by hand delivery, or if the summoned person is an individual, the summons may be left at that person's last and usual place of abode. The summoned witness may waive proper service of the summons by signing a waiver. See IRM 25.5.3.2, **Service of Summons**.

25.5.6.3.3
(08-12-2019)
Records

(1) *Records* - This term includes books, papers, or other data. The concept of records has been broadly construed to include an executable copy of a commercial tax software program used to prepare returns or organize business records (such as Quickbooks). However, a summons for a computer software source code cannot be issued unless certain conditions set forth in IRC 7612 are satisfied.

(2) Examples of third-party records are:

a. Employer records;
b. Corporate records;
c. Hospital records, excluding nature of illness;
d. Partnership records; and
e. Records of an unincorporated labor union concerning transactions of its officers.

Note: The dissolution of a corporation will not relieve its officers of the duty to produce existing records within their control.

25.5.6.3.4
(10-04-2006)
John Doe Summons

(1) *John Doe summons* - This is any summons that does not identify the taxpayer being investigated. For further information about John Doe summonses see IRM 25.5.7, *Summons, Special Procedures for John Doe Summonses*.

25.5.6.3.5
(08-12-2019)
Numbered Bank Account

(1) *Numbered bank account* - An account with a bank or similar financial institution through which a person may authorize transactions solely through the use of a number, symbol, code name or similar arrangement not involving disclosure of the account owner's identity. See 26 CFR 301.7609-2(b)(3).

25.5.6.3.6
(10-04-2006)
Proceeding to Quash

(1) *Proceeding to quash* - A civil action begun in the appropriate U.S. district court to prevent compliance by a summoned third-party witness.

25.5.6.3.7
(04-30-1999)
Intervention

(1) *Intervention* - The act of a person, who is not originally a party to a summons proceeding, becoming a party in order to protect his or her interests. Under IRC 7609(b)(1), any person who is entitled to notice of a third-party summons (i.e. a noticee) may intervene in any proceeding with respect to the enforcement of that summons. Also, under IRC 7609(b)(2)(C), the summoned third party has the right to intervene in any proceeding brought by a noticee to quash the summons.

25.5.6.3.8
(03-10-2017)
Noticee

(1) *Noticee* - The persons entitled to notice of a third-party summons are the taxpayer identified in the heading of the summons and every person identified in the description of summoned records (other than the person summoned). The taxpayer identified in the caption of the summons is always a noticee, even though his name may not appear in the description of summoned records. A noticee has the right to be given notice of the summons, to intervene in a summons enforcement proceeding, and to bring a proceeding to quash the summons.

Note: Where a summons is served on a bank for account records and the IRS agent or officer knows before serving the summons that an account is styled in the names of more than one person, then each person should be named in the description of summoned records and should receive notice. For example, if the agent or officer knows that bank accounts are listed in the joint names of husband and wife, then both the husband and wife should be identified in the description of summoned records and both should be given separate notice, even if they reside at the same address. When records of a partnership are requested in the description of summoned records, notice to one general partner is sufficient.

25.5.6.3.9
(04-30-1999)
Date of Service of Notice

(1) *Date of service of notice* - The date on which the notice is placed in the mail or delivered personally.

25.5.6.4
(03-10-2017)
Statutory Requirements for Third-Party Summonses

(1) In general, IRC 7609 provides that:

a. The taxpayer and every person (other than the summoned witness) identified in the description of summoned records must be notified if a summons has been served on a third party, unless the summons is subject to the exceptions listed in IRC 7609(c)(2)-(3);
b. Any person who has the right to notice may file a timely petition to quash the summons in the appropriate U.S. District Court if he or she wishes to prevent the summoned third-party witness from complying with the summons (see IRM 25.5.6.6.2, *Right to File Petition to Quash Summons*, for rules regarding timeliness);
c. Notice is not required when the IRS first obtains a court order based on allegations that reasonable cause exists to believe that the giving of notice may lead to material interference with the investigation or examination;
d. The filing of a petition to quash the third-party summons by the taxpayer or his or her agent suspends the running of the statute of limitation for assessment and criminal prosecution during the period when a court proceeding and appeals related thereto are pending;
e. A dispute between a summoned third party and the IRS that is not resolved within six months after the service of a summons suspends the statutes of limitation on assessment and criminal prosecution until the final resolution of the summoned person's response; and
f. A John Doe summons can only be served pursuant to a court order.

(2) Refer to IRM 25.5.2.2.1, *Description of Summons (Form 2039)*, to determine the appropriate summons instrument to use in a given situation.

25.5.6.4.1
(08-12-2019)
Procedures for Summonses Issued to Investigate Liabilities for the Trust Fund Recovery Penalty

(1) The notice procedures of IRC 7609(a) apply to third-party summonses issued to investigate persons who may be responsible for the trust fund recovery penalty (TFRP).

(2) When investigating the persons who may be responsible for the TFRP, the IRS often will summons a bank (or other third party) to obtain records of the corporation's accounts. In many cases, the IRS knows of several corporate officers or employees who may be responsible for the penalty. In such cases, the IRS should issue a separate summons for each potentially responsible person and should follow the notice and waiting period requirements of IRC 7609(a). Each such summons should only have one potentially responsible person's name typed in the heading. The bank need only provide one set of documents for multiple summonses with identical document requests. See *Exhibit 25.5.6-1, Sample Language for a Letter for Limiting a Response for Records for Multiple Potentially-Responsible Persons*.

Note: The IRS should **not** list the names of all of the potentially responsible persons in the heading of one summons. Listing more than one known taxpayer in the caption of a summons is generally improper for all summonses other than for married couples filing a joint income tax return or for a group of corporations filing a consolidated income tax return. Otherwise, one taxpayer of many in the caption can advantage or disadvantage the other captioned taxpayers in terms of the assessment or criminal statutes of limitations in ways not contemplated by IRC 7609(e). Doing so could also raise disclosure problems because each potentially responsible person will receive the IRC 7609(a) notice of the summons form showing all of their names. A redacted copy cannot be used to avoid these problems because the employee serving the summons must certify that the notice copies are true and correct copies of the original. Therefore, the IRS must issue a separate summons for each potentially responsible person whom it investigates.

(3) The potentially responsible person should be identified in the heading of the summons by name and by his or her capacity as an employee or officer of the corporation. For example, where two potentially responsible persons (an officer and an employee) have been identified, two summonses would be issued. A summons investigating the liability of John Smith, president of Corporation XYZ, Inc. would be captioned as "In the matter of John Smith, President of Corporation XYZ, Inc." A separate summons concerning the liability of an employee, John Smith, Jr., would be captioned "In the matter of John Smith, Jr., Employee of Corporation XYZ, Inc." (Since the corporate name is identified in the heading of the summons, the corporation is a noticee as well as the individual named in the heading and both the corporation and individual are required to receive notice per IRC 7609(a)(1).)

(4) In many situations, the IRS will know the identity of many potentially responsible persons but perhaps not all. For example, Corporation A has failed to pay its employment taxes for several past quarters and there are five potentially responsible persons. If the IRS knows the identity of four of the five potentially responsible persons, the IRS will serve four summonses on the bank even though one of the summonses seeks the production of all of the documents the IRS requires for all four investigations. As a matter of law, IRC 7609 does not require the IRS to serve all four summonses; however, the IRS will serve all four as a matter of practice. To do otherwise would undermine a taxpayer's opportunity to seek to quash a third-party summons that the IRS issued to in-

vestigate his or her liability. Eliminating the taxpayer's opportunity to petition to quash would be inconsistent with congressional intent (as expressed in RRA 98) to broaden the taxpayer's access to judicial review of third-party summonses. However, the IRS need not later serve on the bank a summons that names the fifth person unless additional records are required to determine that person's liability.

(5) When serving multiple identical summonses on a bank (or other third party) to investigate the persons potentially liable for the TFRP, inform the summoned person that the IRS need only receive one copy of the summoned information. See Exhibit 25.5.6-1 for sample language for a cover letter to accompany summonses in this situation.

25.5.6.5
(08-12-2019)
Exceptions to Notice Requirements

(1) There is no IRC 7609 notice requirement in the following instances:

a. Service of a John Doe summons;
b. Where the summoned witness is the taxpayer or officer or employee of the taxpayer;
c. Where each person entitled to notice has given up this right by executing a waiver;
d. Where the summons is served to determine whether records of the business transactions or affairs of an identified person have been made or kept;
e. Where the summons is issued in aid of the collection of an assessment made or judgment rendered against the person regarding whose liability the summons is issued, or the liability at law or in equity of any transferee or fiduciary of such person (see IRM 25.5.6.5.1, *Scope of the Exception for Summonses Issued in Aid of Collection*, for more detailed information);

Note: Notice under IRC 7609(a) is required for third-party summonses issued for Delinquent Return Investigations (DEL RET), for records to establish the liability for the trust fund recovery penalty, or for any other investigation where no liability has been assessed or an additional liability is being proposed. Notification is not required for third-party summonses issued for Balance Due Accounts (BAL DUE) or any other investigation where the IRS is seeking to collect a liability assessed against the taxpayer identified in the heading of the summons.

f. Summonses issued by a criminal investigator to a third party who is not a third-party recordkeeper;
g. Summonses issued solely to determine the identity of a person having a numbered bank account (see IRM 25.5.6.3.5, *Numbered Bank Account*).

(2) Summonses issued pursuant to a court order:

a. Notice shall not be required if, upon petition by the IRS, the district court determines reasonable cause exists to believe that giving notice may lead to attempts to conceal, destroy, or alter records relevant to the examination; to prevent the communication of information from other persons through intimidation, bribery, or collusion; or to flee to avoid prosecution, testifying, or production of records. The petition must be filed before issuing the summons in the United States district court for the district within which the summoned person resides or is found.
b. In the hearings required under (a) above, as well as those referred to in this Handbook regarding John Doe summonses, the determination shall

be made ex parte based solely upon the government's petition and supporting affidavits. An order denying the petition is deemed a final order which may be appealed.

c. Forward requests for court orders to the Associate Area Counsel for processing. Include in the memorandum a request that the person(s) to be summoned refrain from informing the taxpayer (or any other person to whom the summoned information relates) of the summons.

25.5.6.5.1
(03-10-2017)
Scope of the Exception for Summonses Issued in Aid of Collection

(1) IRC 7609(c)(2)(D)(i) and (ii) provide exceptions from the notice requirement of IRC 7609(a) for two different categories of collection summonses. The first category is codified in IRC 7609(c)(2)(D)(i), which provides an exception for summonses issued to aid in collecting an assessment made or a judgment rendered "against the person with respect to whose liability the summons is issued." That phrase refers to the taxpayer identified in the heading of the summons as the person being investigated. If the IRS does not have an assessed liability or judgment against that taxpayer, then it cannot use the collection exception for any third-party summons it issues in that investigation. As a result of this rule, the IRS must give notice under IRC 7609(a) when serving a summons on a third party to investigate the liability of those persons who are potentially responsible for the trust fund recovery penalty because those taxpayers' liabilities have not yet been assessed. The IRS cannot rely on the assessment against the corporation to satisfy the collection exception for these summonses, nor may it caption such summonses as issued "In the matter of the Corporation-Taxpayer." These summonses must be captioned as in the matter of the individuals being investigated as potentially responsible persons. See IRM 25.5.6.4.1, *Procedures for Summonses Issued to Investigate Liabilities for the Trust Fund Recovery Penalty.*

Note: A fraudulent conveyance investigation or a nominee lien investigation will not result in a new, separate assessment against a person other than the taxpayer whose liability the IRS is trying to collect. Thus, summonses issued to pursue fraudulent conveyance or nominee lien investigations are excepted from the notice requirement by IRC 7609(c)(2)(D)(i) so long as the IRS has assessed against the taxpayer the liabilities it seeks to collect or has a judgment against the taxpayer.

(2) The second category of collection summonses is described in IRC 7609(c)(2)(D)(ii), which provides an exception from the notice requirement for summonses issued to aid in collecting the liability at law or in equity of any transferee or fiduciary of a taxpayer against whom the IRS has made an assessment or obtained a judgment. The scope of this exception is limited to summonses issued to collect a transferee (or fiduciary) liability that has been assessed pursuant to IRC 6901 or otherwise finally determined by a judgment. It does not apply to summonses issued to determine whether a person is liable as a transferee pursuant to IRC 6901.

25.5.6.5.2
(09-04-2014)
Sharing Information Obtained by a Collection Summons With IRS Personnel Conducting Examinations or Criminal Investigations

(1) At times, the IRS may be pursuing a civil examination or a criminal investigation of a taxpayer's unassessed liabilities while it is also pursuing (or has finished pursuing) collection actions against the same taxpayer for assessed liabilities. In these circumstances, the IRS's collection functions may have obtained information by a collection summons that was excepted by IRC 7609(c)(2)(D) from the notice requirement of IRC 7609(a). In general, the IRS may share the information gathered pursuant to an excepted collection summons with examiners and criminal investigators, even though the

examiners and criminal investigators would have had to give notice of the summons had they issued it. However, as explained in the scenarios discussed below, the IRS must not engage in any subterfuge by having collection personnel summon information that is only needed for the examination or criminal investigation. The collection employee must act in good faith and must have a legitimate collection purpose for summoning the information.

(2) In the first scenario, a special agent is conducting a criminal investigation and is working with a cooperating revenue officer. Under these circumstances, the special agent should issue any third-party summons and give notice as required by IRC 7609(a) (unless the special agent's summons is not served on a third-party recordkeeper and is thus excepted from the notice requirement by IRC 7609(c)(2)(E)). To do otherwise would constitute an attempt to disguise the criminal nature of the investigation by having the collection employee issue the summons. See *United States v. Tweel,* 550 F.2d 297 (5th Cir. 1977) (revenue agent failed to apprise taxpayer of the **obvious criminal nature** of the investigation and court suppressed all evidence obtained by IRS's silent misrepresentation). Moreover, such a summons would be unlikely to meet the requirements of a collection summons under IRC 7609(c)(2)(D).

(3) In the second scenario, the collection employee issues a third-party summons to collect an assessed liability. After gathering the summoned information, the collection employee finds indications of criminal activity and refers the case to Criminal Investigation. The collection employee can share the summoned information with Criminal Investigation (and Criminal Investigation does not need to repeat the summons process and give notice). If the summoned information may be exculpatory then that information must be shared with Criminal Investigation. After the case is referred to Criminal Investigation, the collection employee must coordinate any further summons activity with Criminal Investigation and should follow all policies and procedures for parallel investigations. See Policy Statement 4–26 at IRM 1.2.1, *Servicewide Policy Statements*. A third-party collection summons must not be solely used to pursue a criminal investigation. To do so would constitute a subterfuge and would jeopardize the criminal investigation. See *United States v. Tweel,* 550 F.2d 297 (5th Cir. 1977). Using a collection summons solely to further a criminal investigation would also circumvent the IRC 7609(a) notice requirement if the summons was directed to a third-party recordkeeper. The collection employee's purpose for issuing the summons must be to collect the tax, not solely to develop a criminal case.

Note: As noted above, after a case is referred to Criminal Investigation, the collection employee must coordinate any further summons activity with Criminal Investigation. In particular, the collection employee must ask whether the IRS has referred the case to the Department of Justice for criminal prosecution or to begin a grand jury investigation. If such referral has been made, the IRS is precluded by IRC 7602(d) from issuing a summons or seeking to enforce a summons against the same taxpayer for the same periods and the same tax liabilities that are the subject of the criminal referral. Seek the assistance of the local Criminal Tax Counsel and the Associate Area Counsel (SB/SE) on issues involving IRC 7602(d).

(4) The third scenario occurs when an IRS examiner is determining a taxpayer's liabilities (e.g., by examining the taxpayer's returns) and an IRS collection employee is working to collect assessed liabilities owed by the same taxpayer for periods other than those being examined. For example, the collection

employee issues a third-party summons to collect taxes assessed for the years A and B, while the examiner is investigating the taxpayer's liabilities for years C and D. So long as the collection employee summons information that "may be relevant," within the meaning of IRC 7602(a), to collecting the assessed taxes for years A and B, then the collection employee can share the summoned information with the examiner. This is appropriate because the collection employee is only summoning information that would otherwise be summoned if there were no ongoing, separate examination. However, if the examiner needs additional information, then he or she must obtain that information independently by issuing a separate third-party summons, if necessary, and by giving notice as required by IRC 7609(a).

(5) The fourth scenario is similar to the third, except both the collection employee and the examiner are pursuing separate and independent investigations of the same taxpayer for the same year. This may occur where the IRS has assessed a trust fund recovery penalty for periods A, B, and C, and is also examining the taxpayer's income tax liabilities for those same years. The analysis and conclusions are the same as for the third scenario. So long as the collection employee only summons information appropriate to his or her case, then he or she should be able to share that information with the examiner. The collection employee must avoid summoning information solely to assist with the examination; all of the summoned information must be of a nature that may be relevant to the collection activity.

25.5.6.6
(04-30-1999)
Procedures for Notice, Petition to Quash the Summons, and Compliance or Enforcement

(1) This section covers the following:

a. Period in Which Service is Required to Give Notice,
b. Right to File Petition to Quash Summons, and
c. Compliance or Enforcement of Summons.

25.5.6.6.1
(10-04-2006)
Period in Which Service Is Required To Give Notice

(1) When summoning a third party for records or testimony, serve notice on the taxpayer and all other noticees within three days of serving the summons.

(2) No examination of the summoned records is allowed before the close of the 23rd full day after notice is given. Therefore, set the date for appearance:

a. No sooner than the 24th day after giving notice to ensure sufficient time for the noticee to receive notice and, if desired, file a petition to quash, and
b. On a workday.

25.5.6.6.2
(08-12-2019)
Right to File Petition to Quash Summons

(1) A noticee who wishes to prevent summons compliance by the third party must begin a civil action in U.S. district court to quash the summons not later than the 20th day after the day notice of the summons is given. When the last day to file a petition to quash falls on a Saturday, Sunday, or legal holiday, the petition to quash may be timely filed on the next business day.

(2) A noticee who brings a proceeding to quash the summons must mail (by registered or certified mail) copies of the petition to the summoned third party and to the IRS employee who issued the summons within the 20 day period.

(3) In instances where a summons is served on a third party for records or testimony and the description of summoned records identifies another person

(other than the taxpayer or summoned witness), notice will be given to such person. This person has the right to file a petition to quash the summons. A person not entitled to notice does not have the right to file a petition to quash the summons.

(4) No examination of the summoned records is allowed before the 24th day after notice is given, or if a proceeding to quash is begun until the court so orders, or until every person that is entitled to notice consents. Form 14465, *Waiver of Rights to Notice or Right to Petition to Quash,* may be used to document the noticee's consent.

25.5.6.6.3
(08-12-2019)
Compliance or Enforcement of Summons

(1) IRS employees who receive a petition to quash will notify Associate Area Counsel by telephone on the same day. Within six workdays, the employee will forward to Associate Area Counsel a memorandum report or Form 4443, *Summons Referral*, to include the following:

a. The name, full address, and taxpayer identification number of the taxpayer under examination or investigation;
b. A brief summary of the facts in the case, including whether it involves, or is related to, the Special Enforcement Program or a promoter of or participant in an abusive tax scheme (ATAT - Abusive Tax Avoidance Transactions) case;
c. An explanation of the relevance of the summoned information to the periods under investigation;
d. All information supporting the validity or non-validity of each assertion in the petition to quash;
e. A recommendation for or against defense of the petition to quash the summons; and
f. The original summons and a copy of the petition to quash the summons.

Note: Timely observance of this procedure is extremely important since the matter must be reviewed by IRS Counsel, DOJ, and the U.S. Attorney.

(2) Tolling of the periods of limitation on assessment and criminal prosecution occurs when the taxpayer intervenes or brings a proceeding to quash, or when a third party fails to produce the summoned records within six months of being served.

a. If the taxpayer (or the taxpayer's agent, nominee, or other person acting under the taxpayer's direction or control) intervenes in a summons enforcement suit or brings a proceeding to quash, then all periods of limitation under IRC 6501 (for assessing the taxpayer's liability for the periods listed in the summons) and all periods of limitation under IRC 6531 (for criminally prosecuting the taxpayer for the periods listed in the summons) are tolled. The periods are tolled during the time the proceeding is pending or appealed; and
b. If the taxpayer does not intervene in a summons enforcement suit or bring a proceeding to quash, and the summoned third party fails to comply with the summons for six months after being served, then the period of limitation under IRC 6501 and IRC 6531 (pertaining to the taxpayer's liability) shall be suspended beginning six months after the summons was served and ending when the dispute is resolved. See IRM 25.5.6.6.3.2 below.

(3) Intervention by a person other than the taxpayer or his or her agent will not suspend the running of the statutes of limitation.

(4) The IRS and the person summoned must be sent (by certified or registered mail) a copy of the noticee's petition to quash not later than the close of the 20 day period. If a petition to quash is not mailed to the IRS timely, the summoned person should be asked to produce the summoned information. If he or she does not, the employee should immediately forward the summons for enforcement.

25.5.6.6.3.1
(02-12-2013)
Collection

(1) Collection personnel who receive a petition to quash will notify Advisory (or Associate Area Counsel depending on local procedures) by telephone on the day of receipt. If local procedures are to notify Advisory, then Advisory will notify Associate Area Counsel immediately.

(2) Within six work days of receiving a petition to quash, prepare a memorandum or Form 4443, *Summons Referral*, to include the items listed above under IRM 25.5.6.6.3(1), *Compliance or Enforcement of Summons,* and forward to Advisory (or Associate Area Counsel if direct referral). Advisory will review the memorandum (or Form 4443) and forward to Associate Area Counsel, as appropriate.

25.5.6.6.3.2
(04-21-2009)
Suspension of the Periods of Limitation When a Summoned Third Party Fails to Fully Comply for 6 Months After Service With a Summons

(1) If a third party that is served with either a third-party summons to which the notice requirement of IRC 7609(a) applies or a John Doe summons fails to fully comply with the summons within six months of being served, the taxpayer's periods of limitation on assessment (under IRC 6501) and on criminal prosecution (under IRC 6531) shall be suspended under IRC 7609(e)(2). The suspension only applies to those taxable periods that are the subject of the summons. Under IRC 7609(e)(2), the suspension shall begin on the date that is six months after the summons was served and shall end on the date on which there is a final resolution of the third party's response to the summons.

(2) The date on which the suspension under IRC 7609(e)(2) begins is illustrated by this example. A John Doe summons was prepared on April 1, 2000, for issuance to a promoter of a tax shelter and seeks the names of all participants in the shelter in order to investigate the participants' income tax liabilities for 1997 and 1998. The district court approves the service of the summons on April 30, 2000, and the summons is served on the promoter on May 1, 2000. The promoter does not turn over the names of the participants. The periods of limitation for the participants' income tax liabilities for 1997 and 1998 are suspended under IRC 7609(e)(2) beginning November 1, 2000, the date which is six months after the date the John Doe summons was served, until the date on which the promoter's response to the summons is finally resolved.

(3) The decision to use the suspension under IRC 7609(e)(2) for any period of limitations on assessment or criminal prosecution must be approved in writing by the IRS employee's group manager or a higher level manager. Before approving the use of this suspension, both the IRS employee and the manager must ensure that the document requirements of IRM 25.5.6.6.3.4, *Contemporaneous Documentation Requirement,* are satisfied and will continue to be satisfied until the suspension terminates. If IRM 25.6.23, *Examination Process -- Assessment Statute of Limitations Controls,* applies to the IRS employee's business operating division (or other organizational component), the Manual requirements contained therein must also be followed. For example, IRM

25.6.23.5.7.2(4), *Reliance on IRC Provisions Which Extend Normal Assessment Statute,* and IRM Exhibit 25.6.23-3, *Instructions for Updating the Statute on AIMS,* provide that the Territory Manager's written approval must be obtained in advance if the IRS employee and immediate manager intend to rely on IRC 7609(e)(1) or IRC 7609(e)(2) to suspend the statute.

Note: IRM 25.6.23, *Statute of Limitations, Examination Process -- Assessment Statute of Limitations Controls,* contains information on assessment statute controls for all LB&I, SB/SE, and W&I organizational components conducting examinations of tax returns, including supporting activities and examination activities by the campuses and TE/GE. (IRM 25.6.23 does not apply to CI, but the Summons Handbook, specifically IRM 25.5.6.6.3.3 through IRM 25.5.6.6.3.4, does.)

25.5.6.6.3.3
(04-21-2009)
Determination of Final Resolution

(1) For purposes of the suspension of the periods of limitation under IRC 7609(e)(2)(B), final resolution of a summoned party's response to a third-party summons or any order enforcing any part of a third-party summons occurs when the IRS determines that the summoned person has fully complied with the summons or any order enforcing any part of the summons and when all appeals are disposed of or the period in which an appeal may be taken or a request for further review may be made has expired.

a. The IRS will determine whether the summoned third party has fully complied within a reasonable time after the summoned information is turned over. The amount of time that is reasonable will be determined based on the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons. The following are non-exclusive examples of reasonable time periods within which to determine whether the summoned third party has fully complied with a summons. These examples do not constitute suggested time frames because each case is different and will turn on its own facts and circumstances:

1. The IRS summoned a third party to produce its retained copy of a financing statement the taxpayer submitted when applying for a loan. Ten months after the summons was served, the third party produces the financing statement, which consists of ten pages written in English. The IRS employee should require no more than two days to review the document and determine that it is complete and that the summons is satisfied. Final resolution occurred ten months and two days after the summons was served.
2. The IRS summoned a third party to produce ten leases entered into by three foreign business entities that the taxpayer controlled. Ten months after the summons was served, the third party produces the ten documents. Six of the documents are written in English and are under ten pages each in length, but four documents are written in an obscure foreign language and total 40 pages. The IRS has no employees who can interpret the documents and must contract with an outside source to have the documents translated. The process of obtaining an outside contractor and receiving the English translation takes three months. The IRS employee obtains the translation and takes five business days to review

the leases and determine that they are complete and that the summons is satisfied. Final resolution occurred 13 months and 5 business days after the summons was served.

3. The IRS summoned a tax shelter promoter to produce all documents, described both generically and as specifically as possible in the summons, that relate to transactions characterized as listed transactions as of the date of the summons. Eleven months after the summons is served, the third party turns over 50 boxes of information, containing approximately 800 documents, written in English. The documents are not indexed, nor are they arranged in any discernible order. It takes a team of three revenue agents eight months to organize, catalog, and review the documents and then compare the information to the summons request. Once the comparison is complete, the agents conclude that the summoned third party complied with the summons. Final resolution occurred 19 months after the summons was served.

(2) If a summons is ordered enforced by a court and any collateral proceeding (such as a contempt proceeding) is brought to challenge whether the summoned party's production fully satisfies the court order and whether sanctions should be imposed against the summoned party for failing to do so, the suspension of the periods of limitation shall continue until the summons or any order enforcing any part of the summons is fully complied with (to be determined by the IRS within a reasonable time, consistent with the same principles described above in subsection IRM 25.5.6.6.3.3(1) a) 1-3) and the decision in the collateral proceeding becomes final. A decision in a collateral proceeding becomes final when all appeals are disposed of or when the period in which an appeal may be taken or a request for further review may be made has expired.

25.5.6.6.3.4
(08-12-2019)
Contemporaneous Documentation Requirement

(1) The decision to use the suspension provision under IRC 7609(e)(2) must be approved by the IRS employee's immediate manager or higher level manager. The approval must be written, and must contain the approving official's dated signature and title. If IRM 25.6.23, *Examination Process – Assessment Statute of Limitations Controls,* applies to the IRS employee's business operating division (or other organizational component), the Manual requirements contained therein must also be followed. See above IRM 25.5.6.6.3.2, *Suspension of the Periods of Limitation When a Summoned Third Party Fails to Fully Comply for 6 Months After Service With a Summons.*

(2) As soon as the summoned third party produces any of the summoned information, the IRS employee will determine, consistent with the reasonable time standard discussed above in IRM 25.5.6.6.3.3, *Determination of Final Resolution,* whether the production constitutes full compliance. The IRS employee will keep contemporaneous written records in the administrative file of all matters concerning the summoned third party's compliance or failure to comply with the summons. The purpose for keeping a written record as part of the administrative file is to establish and preserve a contemporary evidentiary basis to support the IRS' determination of final resolution in court.

(3) If the summoned third party's production does not fully comply with the summons, either in whole or in part, the IRS employee shall promptly contact the summoned person in writing using Letter 4432, **Exhibit Letter for Third Party Summons,** which will state that the production is insufficient and will describe the information that the summoned person must produce to comply

with the summons. A copy of this letter will be mailed to the taxpayer on the same date on which the letter is mailed to the summoned person. This letter will inform both the summoned person and the taxpayer that the summoned third party's failure to fully comply with the summons for 6 months will cause the taxpayer's periods of limitation to be suspended beginning 6 months after the summons was served and continuing until the summoned person fully complies with the summons. This procedure should be followed every time the summoned third party produces information pursuant to the summons.

Note: The purpose for providing the taxpayer with copies of the form letters is to keep the taxpayer informed of the events that may cause the periods of limitation to be suspended. The letter also contains a provision advising the taxpayer that he may contact the IRS employee for information concerning the suspension under IRC § 7609(e)(2).

(4) In cases in which the documents produced are voluminous, or written in a foreign language, or present any other complicating factor, the IRS employee will document the particular complication in the administrative file to enable the government to credibly show a court why it took the time spent to determine final resolution.

25.5.6.6.4
(08-12-2019)
Notice and Instructions to Noticee, Third-Party Summons

(1) Form 2039, *Summons,* and Form 6639, *Financial Records Summons*, include a notice concerning the noticee's right to contest the administrative summons (Part D). Serve Part D on the noticee with a copy of the summons (Part C), by certified or registered mail to the noticee's last known address. Include Form 2039 Part E for a designated or related summons. Use registered mail when the notice is mailed to persons in foreign countries. The law also permits service of notice by hand delivering the documents to the noticee, or by leaving them at the noticee's last and usual place of abode. In the absence of a last known address of the noticee, both documents can be left with the person summoned. In addition, send a copy of the notice by regular mail to the taxpayer's authorized representative, as a courtesy.

Note: Return receipt is not required as it is an unnecessary expense. Track the mailing by the certified mail number on the United States Postal Service Form 3800, *Certified Mail Receipt*.

(2) If the IRS has been advised under IRC 6903 of the existence of a fiduciary relationship, mail notice of the summons to the last known address of the fiduciary of the person entitled to notice, even if such person or fiduciary is now deceased, is under a legal disability, or no longer exists. The filing of a power of attorney form or tax information authorization does not create a fiduciary relationship under this provision.

(3) Complete certification of service of the summons and of giving notice on the reverse side of the original summons, *Service of Summons, Notice and Recordkeeper Certificates.* If there is more than one noticee, copy the form to document how notice was given to each noticee. Field Collection employees will use ICS to document the service of the summons and how notice was given. See IRM 5.17.6.4.1, **Proper Service - IRC § 7603.**

(4) A noticee who files a petition to quash the summons must mail (by registered or certified mail) copies of the petition to the summoned third party and to the IRS employee **whose name and address are shown on the face of the**

summons. If a summons enforcement action is instituted against the third party, the noticee has the right to intervene in the action. DOJ will serve the third party with process and will notify the noticee of the action via certified or registered mail.

(5) The second page of the original summons certifies how service of the summons was made and that notice was given, or that notice was not required (e.g. for a collection summons). This page may also be used to certify that the period for beginning a proceeding to quash the summons has expired and that no such proceeding was instituted within such period, or that all of the noticees consent to the examination. Upon request of the summoned third party, the IRS employee will give a copy of this page to the summoned third party, as provided in IRC 7609(i)(2).

25.5.6.6.5
(08-12-2019)
Waiver of Right to Notice and To Petition to Quash the Summons

(1) Persons who are entitled to notice and to file a petition to quash when a summons is issued may waive such rights via a general waiver form. Form 14465, *Waiver of Rights to Notice or Right to Petition to Quash,* is suggested for waiver purposes. For a noticee other than the taxpayer, **Signature of Taxpayer** should be modified to say **Signature of Noticee.** All third parties involved in the waiver should be given a copy of the waiver for their records. Prepare the waiver in triplicate; retain the original, give one copy to the summoned party and one copy to the noticee.

(2) If all persons entitled to notice waive their rights, the time and place of examination must not be less than 10 days from the date of service. The witness may voluntarily comply at an earlier time.

(3) Payments for mileage, witness fees, and expenses may be made to persons who are summoned. See IRM 25.5.9, *Summons, Fees and Costs for Summoned Witnesses.*

25.5.6.6.6
(08-12-2019)
Duty and Rights of a Summoned Third Party

(1) The third party:

a. Has the right to intervene in the proceeding to quash the summons, and
b. Is bound by any decision in the proceeding, even if he or she does not intervene.

(2) The law provides that the third party will, upon receipt of the summons:

a. Proceed to assemble the summoned records (or such portion as the IRS employee indicates), and
b. Be prepared to produce the records on the day on which the records are to be examined whether or not a noticee files a petition to quash the summons.

(3) A third party is not liable to any customer or other person for such disclosure if the disclosure of records was made in good faith reliance on the IRS' certification that:

a. The period for beginning a proceeding to quash a summons has expired and no such proceeding began within such period, or
b. The taxpayer and every other person entitled to notice consented to the examination.

Note: A third party is also shielded from liability when disclosing records pursuant to a court order that requires the production of records or the giving of testimony.

25.5.6.6.7
(08-12-2019)
Coordination of Summons Issuance and Enforcement Actions

(1) Attempt to coordinate the service of summonses pertaining to the same person at or near the same time, if possible. Likewise, make requests to the court for the exemption from the requirement of notice relative to the same person at the same time, provided that the witnesses to be summoned may all be found in the applicable judicial district.

25.5.6.6.7.1
(02-12-2013)
Examination and TE/GE

(1) Use the following codes:

a. Statute of limitations, alpha code LL, to update AIMS to identify these cases on the monthly AIMS tables 4.0 or 4.1.
b. AIMS database should be updated by an IRS employee, to reflect the correct statute date.
c. When closing the case, use Form 3198, *Special Handling Notice for Examination Case Processing,* and Form 895 *Notice of Statute Expiration*, to indicate that the new statute date has been determined under IRC 7609 as a result of the third-party summons when the statute was suspended per IRC 7609(e).

25.5.6.6.7.2
(08-12-2019)
Indian Tribal Government

(1) Indian tribal governments shall be treated as states for certain purposes per IRC 7871. Therefore, a unique relationship exists between Indian tribal governments and the United States government. This relationship requires a heightened level of sensitivity with respect to compliance efforts.

(2) The Indian Tribal Government (ITG) office in the Tax Exempt and Government Entities (TE/GE) Operating Division coordinates all aspects of tax administration as it impacts Indian tribes. ITG serves as the central point for all IRS contacts with federally recognized Indian tribes. ITG Specialists must stay involved in material interactions between the tribal government and the IRS.

(3) Do not serve a summons on a tribal government or a third party for information concerning a tribal government without coordinating with ITG. This coordination includes any summons issued by the IRS, including those summonses issued to investigate the trust fund recovery penalty (TFRP) for persons responsible for the unpaid trust fund taxes of a tribal entity. A summons initiated by Criminal Investigation is excepted from this requirement.

(4) Due to the unique laws affecting Indian tribes, IRS employees issuing summonses to a tribal entity must ensure that the information being sought is legally obtainable and that the summons can be enforced if necessary. A copy of the proposed summons should be forwarded to the area ITG manager through the employee's manager. ITG area managers can be located at Indian Tribal Governments, Contacting ITG at *http://www.irs.gov/Government-Entities/Indian-Tribal-Governments/How-to-Contact-ITG*. The area ITG manager will forward the summons to the ITG Field Operations Manager for concurrence of the summons. The Field Operations Manager will review the summons and send concurrence via secure E-mail to the originating employee's manager. The employee's manager can then approve the summons for issuance.

(5) Additional ITG information is located in IRM 4.86.1, *Indian Tribal Governments Administration and Policy,* IRM 4.88.1, *Examination Issues Pertaining to ITG Cases,* and IRM 5.1.12.24.2.1, *Enforcement Action on ITG Cases*.

25.5.6.7
(04-30-1999)
Banks

(1) Frequent demands for information are made upon banks. A depositor at a bank has no proprietary interest in the bank's books and records. The bank cannot refuse production of its records because some of the entries relate to transactions of persons other than the designated taxpayer. On the other hand, a bank will not be required to produce all of its records so that the IRS can determine whether any of them contain information relating to an examination or investigation.

(2) The Right to Financial Privacy Act (RFPA) provides some account owners with the right to be given notice when banks release account information to government authorities. However, section 3413(c) of that Act allows the IRS to obtain a taxpayer's financial records without providing notice as long as the records are obtained pursuant a procedure authorized by the IRC. The IRS interprets IRC 7602 as providing the procedure for its employees to request and receive taxpayer account information without issuing a summons. Consequently, the IRS routinely requests and accepts a financial institution's voluntary production of a taxpayer's records of account, except in situations governed by the Tenth Circuit's precedents. (Refer to IRM 25.5.1.4.1(3), *Documents from Financial Institutions in the Tenth Circuit,* for a list of these situations.) The Tenth Circuit, however, does not interpret IRC 7602 as providing the procedure required by section 3413(c) of the RFPA. Instead, the circuit court interpreted IRC 7609 as such a procedure. Therefore, that circuit court has ruled that a bank's voluntary disclosure of a customer's financial records to the IRS, without prior notice to the customer, violates the RFPA. Accordingly, in situations governed by the Tenth Circuit's precedents, the IRS may only obtain account records from a bank by serving a summons and providing notice consistent with IRC 7609.

Note: In RRA 1998, Congress enacted IRC 7609(j), which provides that nothing in IRC 7609 shall be construed to limit the IRS' ability to obtain information, other than by summons, through formal or informal procedures authorized by IRC 7601 and IRC 7602. IRC 7609(j) supports the position that the IRS' ability to informally seek the voluntary exchange of records, i.e., without a summons, constitutes a procedure authorized by the Code. Nevertheless, the IRS will follow the Tenth Circuit's ruling in situations described in IRM 25.5.1.4.1(3).

25.5.6.7.1
(02-12-2013)
Foreign Branches of Domestic Banks

(1) A summons served on a domestic bank to produce records of one of its foreign branches may be enforceable even if compliance would constitute a violation of the laws of the foreign country. The basis for compelling production of records is that a bank, like any other corporation, is presumed to be in possession and control of its own books and records. Courts have reasoned that any officer or agent of the corporation who has power to cause the branch records to be sent from a branch to the home office for any corporate purpose has sufficient control to cause them to be sent when summoned pursuant to IRC 7602.

(2) In determining whether to enforce a summons where the laws of the country in which the information is located bar such production, the courts balance the interests of the foreign country in blocking production of the records against

the importance of the records to the United States. The courts have used the following 5-part test to determine whether a foreign blocking law should be recognized:

a. The importance to the government's investigation or litigation of the documents or other information requested;
b. The degree of specificity of the request;
c. Whether the information originated in the United States;
d. The availability of alternative means of securing the information;
e. The extent to which noncompliance with the request would undermine important interests of the United States, or of the state where the information is located.

(3) Compliance employees cannot issue a summons directly to an individual or entity located outside the United States. See IRM 25.5.8.5, *Records Outside the United States,* for additional information.

25.5.6.7.2
(08-12-2019)
Domestic Branches of Foreign Banks

(1) The United States courts have jurisdiction over a domestic branch of a foreign corporation and over its records located in this country.

(2) A domestic branch that sends its records to a foreign bank for storage may argue that it has relinquished control over such records. However, in determining whether to enforce a summons for such foreign-based records, a U.S. court would utilize the same balancing test described in IRM 25.5.6.7.1(2). Depending upon the age of U.S.-generated bank records, the Bank Secrecy Act and other U.S. laws and regulations may also be argued to prohibit the U.S. bank from storing its customer records offshore.

25.5.6.8
(10-04-2006)
Summonses for Foreign Records of Corporate Slush Funds

(1) The following procedures have been established for summoning foreign records related to corporate slush funds:

a. The Field Territory Manager forwards a copy of the proposed summons for records relating to corporate slush funds and improper payments to Associate Area Counsel.
b. Associate Area Counsel coordinates the review of this summons with Associate Chief Counsel (International).
c. Associate Chief Counsel coordinates the matter with the Director, Compliance.

(2) Include with the proposed summons a statement describing:

a. The circumstances and efforts made to secure the records and data from the taxpayer or other witness.
b. The reasons provided by the taxpayer or other witness for lack of cooperation.

(3) The Field Territory Manager may obtain advice from Associate Area Counsel by telephone in emergency situations.

(4) See IRC 162(c) and IRC 952(a)(4)-(5).

25.5.6.9
(04-30-1999)
Records of Foreign Companies

(1) Whether a foreign corporation must produce its records for inspection by the IRS and other federal agencies depends, in general, on whether it is found to be doing business in this country or has an agent doing business here.

(2) A foreign corporation has been required to comply with a grand jury subpoena (the summons power of the IRS is comparable to the subpoena power of a federal grand jury or summons) in instances where:

a. The foreign corporation had a bank account and salaried employees in the United States and shipped newsprint into this country.
b. The foreign corporation was found to be doing business through wholly owned subsidiaries, in this country.
c. The corporate president, who was served with a subpoena, conducted all of the business of a Mexican mining corporation, except the actual operation of its mines, from his home in Arizona. The corporate records were in Mexico, but the court pointed out that if the Mexican law forbade their removal to this country, the SEC could inspect them at the Mexican office or have authenticated copies made and submitted.

25.5.6.10
(04-30-1999)
Software Trade Secret Protection Under IRC 7612

(1) To determine the accuracy of a return, the IRS may need to examine a computer software source code.

a. Source code is the computer programming language that tells the computer how to manipulate the data.
b. Source code comes in numerous languages including C, C+, C++, COBOL, and Fortran.

(2) The computer software industry has resisted the IRS' efforts to obtain the relevant source code because sensitive trade secrets bound up in the source code may be lost if the information turned over pursuant to a summons is not treated with heightened sensitivity.

(3) Congress determined that the intellectual property rights of the developers and owners of computer software programs should be respected. Congress is concerned that the examination of computer programs and source code by the IRS could lead to the diminution of intellectual property rights through the inadvertent disclosure of trade secrets and that special protection against inadvertent disclosure should be established. As a result of these concerns, Congress enacted IRC 7612, which addresses summonses issued to obtain computer software source codes.

25.5.6.10.1
(02-12-2013)
Conditions For Summoning a Source Code

(1) IRC 7612:

a. Generally prohibits the IRS from issuing a summons or enforcing a summons to produce or analyze any tax related computer software source code (unless conditions below are satisfied);
b. Establishes a number of protections against the disclosure and improper use of trade secrets and confidential information that the IRS acquires in the course of any examination with respect to any taxpayer; and
c. Requires the IRS to demonstrate three things before issuing a summons for a computer software source code.

(2) Before issuing a summons for a computer software code, the IRS must demonstrate:

a. An inability to reasonably ascertain the correctness of an item on a return from the taxpayer's books, papers, records or other data, or by using the executable code and associated data to which the source code relates;

b. Reasonably specific identification of the portion, item, or component of the source code it needs to verify the correctness of such item on the return; and
c. That the need for the portion, item, or component of such source code outweighs the risks of unauthorized disclosure of trade secrets.

This determination must be made by a management official not lower than the group/case manager. The group/case manager should contact Associate Area Counsel regarding how this determination should be made.

(3) Exceptions:

The general prohibition does not apply to:

a. Criminal tax investigations;
b. Tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use;
c. Communications between the owner of the tax-related computer software source code and the taxpayer or related persons; and
d. Tax-related computer software source code which is required to be provided or made available under another Code provision.

(4) Cooperation Required: If the taxpayer fails to turn over the executable code and the associated data, and the owner fails to turn over the executable code within 180 days, the IRS does not have to demonstrate that it is unable to otherwise reasonably ascertain the correctness of any item on a return from the taxpayer's books, papers, records, or other data, or from the executable code and any associated data, and the IRS does not have to identify the portion, item, or component of the source code needed to verify the correctness of such item on the return before a summons for the computer software source code may be issued.

(5) Actions required by the IRS to trigger the 180 day period under IRC 7612(b)(3) are:

a. A group manager or higher level management official must make a determination that it is not feasible to determine the correctness of an item without access to the executable code and associated data.
b. A group manager or higher level management official must also make a determination that the need for the computer software source code or any portion thereof outweighs the risk of unauthorized disclosure of trade secrets.
c. An initial Information Document Request (IDR) must be issued to the taxpayer for the executable code and associated data. The IDR shall recommend that the taxpayer advise the software owner of the request for the executable code. Since the IRS must show the executable code and associated data have not been provided within 180 days before taking additional action, the IRS may require a limited time response period for the initial IDR.
d. If the taxpayer fails to turn over the executable code and associated data in response to the IDR, correspondence requesting the executable code and associated data will be issued to the taxpayer, and correspondence requesting the executable code will be issued to the software owner advising the taxpayer and the software owner that the requests are being made pursuant to IRC 7612(b)(3)(B).

Note: The 180 day period starts with the issuance of the formal requests. Summonses for the executable code and associated data may be issued with the formal requests, but must be coordinated with Associate Area Counsel to ensure adherence to IRC 7612. Follow business unit guidelines for issuance of an IDR.

25.5.6.10.2
(08-12-2019)
Safeguards to Ensure Protection of Trade Secrets and Other Confidential Information

(1) Under IRC 7612(c), in any proceeding to enforce a summons for any portion of software (which includes both source code and the executable code), a court may issue a protective order to prevent the disclosure of such software. In addition, any software that the IRS obtains during the course of any examination is subject to the safeguards listed below. However, prior to receiving any software, whether by court order or voluntarily from the taxpayer or the software owner, Associate Area Counsel must be consulted in order to establish the procedures that must be followed to comply with the statutory (and judicial, where applicable) requirements for safeguarding the software. The safeguards include:

a. Complying with any protective order entered by a court;
b. Only using the software in connection with the examination of the taxpayer's return with regard to which it was received, and related Appeals and judicial proceedings;
c. Providing, in advance, to the taxpayer and owner of the software a written list of all individuals who will analyze or otherwise have access to the software;
d. Maintaining the software in a secure area or place, and in the case of computer software source code, not removing it from the owner's place of business without the owner's consent, unless the removal is pursuant to a court order;
e. Copying the software only when necessary in connection with the analysis and numbering any copies made, and certifying in writing no other copies have been (or will be) made;
f. Returning to the owner the software and all copies at the conclusion of the proceedings, permanently deleting any working copies;
g. Not decompiling or disassembling the software; and
h. Treating the software as return information for purposes of IRC 6103.

(2) Responsibilities:

a. In an examination controlled by the Large Corporate Compliance Program, the Case Manager has the ultimate responsibility for adherence to the required safeguards and completion of all necessary documentation. He or she will insure that all team members are aware of and follow all of the required provisions of this section. In a general program case, the revenue agent conducting the examination is responsible for the safeguards and documentation. IRS employees must coordinate all source code and software summonses through Associate Area Counsel, who will coordinate with the Chief Counsel Procedure & Administration Division, Branches 6 and 7.

25.5.6.10.3
(10-04-2006)
Definitions

(1) The following definitions apply for purposes of IRC 7612:

a. *Software* includes computer software source code and computer software executable code.

b. *Computer software source code* means:
• The code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer;
• Related programmers' notes, design documents, memoranda, and similar documentation; and
• Related customer communications.

c. *Computer software executable code* means:
• Any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions; and
• Any related user manuals.

d. *Owner* shall, with respect to any software, include the developer of the software.

e. *Related person* shall be treated as related to another person if such persons are related persons under IRC 267 or IRC 707(b).

f. *Tax-related computer software source code* means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.

25.5.6.10.4
(08-12-2019)
Effective Date

(1) The summons rules are effective for summonses issued, and software acquired, after 7/22/98.

(2) The software protection rules apply to

a. Software acquired by IRS after 7/22/98.
b. Previously acquired software beginning 90 days after 7/22/98. (However, outside experts do not have to sign a two-year non-competition agreement.)

25.5.6.10.5
(04-30-1999)
Miscellaneous

(1) On some occasions, the IRS has found it helpful to employ outside experts to assist in the analysis of a particular source code. The outside expert used must agree in writing:

a. Not to disclose the software to any person other than persons entitled to disclosure under IRC 6103; and
b. Not to participate for two years in the development of similar software.

(2) The IRS must provide the taxpayer and the owner of any interest in the software with a written agreement between the IRS and any person who is not an officer or employee of the United States and who will analyze or have access to such software which contains the above agreement.

25.5.6.11
(10-04-2006)
Summonses Served On an Educational Institution

(1) The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.A. 1232g, generally protects a student's privacy interests in "education records," which is defined as "records, files, documents, and other materials [that] contain information directly related to the student, and are maintained by an educational agency or institution or [its agent]."

(2) FERPA generally requires that an educational institution obtain the prior written consent of a minor student's parent or the consent of a student who is at least 18 years old or attending a post-secondary educational institution before disclosing education records to a third party (20 U.S.C.A. 1232g(b)(2)(A)). However, FERPA contains an exception for when the disclosure is made to

comply with a lawfully issued subpoena. The Department of Education administers FERPA and has long viewed an IRS summons as falling within the definition of a "lawfully issued subpoena" for the purposes of FERPA.

(3) If an educational institution expresses concern about its responsibilities under FERPA in complying with a summons, the IRS can refer the summoned person to the Department of Education's Family Policy Compliance Office at *Ferpa@ed.gov* for informal advice concerning IRS summonses as "lawfully issued subpoenas."

25.5.6.12
(02-12-2013)
Information From Federal Officials and Employees

(1) In general, no summons will be issued to federal agencies, their officials, or employees for information related to their official responsibilities. Such information may ordinarily be obtained through liaison with the agency.

(2) In rare instances, such as when a high-ranking executive from another federal agency requests a summons, it may be appropriate to serve a summons on the other agency. Any proposal to do so must first be coordinated with and approved by the Office of Chief Counsel, Procedure and Administration, Branches 6 or 7.

Note: Any summons served on another federal agency cannot be enforced in a district court. If the summoned federal agency refuses to provide the summoned information, the dispute will ultimately be resolved by the Office of Legal Counsel at the Department of Justice.

This Page Intentionally Left Blank

Exhibit 25.5.6-1 (08-12-2019)

Sample Language for a Letter For Limiting a Response for Records for Multiple Potentially-Responsible Persons

Dear (Name of Summoned Party):

Today you have been served with multiple separate summonses. Each of these summonses was issued to determine the liability of a different person associated with the corporation for the periods under investigation. The records sought in each summons are identical and pertain to the affairs of the corporation and the liabilities of the person under investigation.

We request that you assemble only one set of the records requested, and that you produce such set of records as required by IRC 7609(i)(1). Pursuant to IRC 7609(i) (2), a certificate will be issued to you upon your request indicating either that a particular taxpayer or taxpayer(s) has (have) consented to the examination of the records or that a timely proceeding to quash a particular summons or summonses has (have) not been filed. Because we are asking that each document be provided only once, costs incurred in supplying duplicates of records in response to these summonses will not be reimbursed.

If you have any questions regarding how to respond to these summonses, please call (Name of Contact Person) at (Telephone Number). Thank you for your cooperation.