

Office of Chief Counsel
Internal Revenue Service
Memorandum

Number: 200629025

Release Date: 7/21/2006

CC:PA:CBS:B03

GLS-147522-05

UILC: 7602.07-01

date: November 17, 2005

to: Exchange of Information Manager, Team 2
(Office of Director International)

from: Chief, Branch 3
Collection, Bankruptcy & Summonses
(Procedure and Administration)

subject: Issuance of Information Document Requests and Summonses

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

We have been asked to provide you with a response to the memorandum you sent to the Branch Chief of Ethics & General Government Law, on September 12, 2005, requesting legal advice with respect to the authority to issue Information Document Requests ("IDRs"), Form 4564, and to issue and serve summonses by Exchange of Information Program Analysts ("Program Analysts") in the Office of Director International, the delegated United States Competent Authority. These Program Analysts work under a GS-512 Position Description on Teams 1 and 2 throughout the United States in various posts of duty, as well as Washington, D.C.

You indicated in your memorandum that when a request for information is received from a treaty partner through a valid income tax treaty, the request is processed either through the Tax Attaches located in various posts throughout the world or through the Program Analysts. Such requests for information are worked primarily by GS-512 Revenue Agents and Program Analysts. These treaty requests are then sent to the

field offices for further processing in order to ultimately obtain the information requested by the treaty partner.

Under current procedures, Revenue Agents receive assistance on summons preparation from Program Analysts although they remain ultimately responsible for the preparation, issuance and service of such summonses. Local Area Counsel also provides guidance on the issuance and enforcement of summonses in these cases. In order to expedite current procedures, you have asked whether or not Program Analysts may perform the duties that are currently being performed by Revenue Agents.

While there is no limitation in Commissioner delegation orders on the authority to issue IDRs, paragraph 9 of Delegation Order 4 (IRM 1.2.52.5) restricts the authority to issue, serve and enforce certain summonses¹ to Revenue Agents and other designated persons. As Program Analysts are not among the persons delegated this authority, paragraph 9 of Delegation Order 4 would have to be amended to include those officials. Assuming paragraph 9 of Delegation Order 4 is amended to include Program Analysts, and assuming that a Program Analyst would handle a summons in the same manner a Revenue Agent handles a summons, Program Analysts should not be restricted from assuming the duties currently being performed by Revenue Agents.

If you would like assistance in obtaining an amendment to paragraph 9 of Delegation Order 4 in order to add Program Analysts to the list of persons with the specified authority to issue, serve and enforce certain summonses, please contact the Ethics & General Government Law branch.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call _____ if you have any further questions.

¹ This authority covers the issuance of all summonses except "John Doe" summonses, and it relates to the performance of other related functions for all summonses except on a summons to a third party witness. Other related functions include serving and enforcing summonses, setting the time and place for appearance, taking testimony under oath of the person summoned, receiving and examining data produced in compliance with the summons.