



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

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INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE

MEMORANDUM FOR  
DISTRICT COUNSEL,

FROM: DEBORAH A. BUTLER  
ASSISTANT CHIEF COUNSEL (FIELD SERVICE)  
CC:DOM:FS

SUBJECT: Religious Objection to Requirement to Provide Social  
Security Numbers of Dependents

This Field Service Advice responds to your memorandum dated Date 5. Field Service Advice is not binding on Examination or Appeals and is not a final case determination. This document is not to be cited as precedent.

LEGEND:

Taxpayers =  
Date 1 =  
Date 2 =  
Date 3 =  
Date 4 =  
Date 5 =  
\$N =  
Senator =

ISSUE:

Whether there is an administrative or policy exception to the disallowance of a dependency exemption under I.R.C. § 151(e) where failure to list an individual's TIN on a return is based on Taxpayers' religious objections to using TIN for their children.

CONCLUSION:

Taxpayers may not refuse on religious grounds to provide TINs (social security numbers) for themselves or their dependents if Taxpayers claim a dependency exemption. The government has a compelling interest in collecting taxes fairly, administering its tax system properly, and ensuring that all citizens participate on equal terms. The use of social security numbers as taxpayer identifiers is the least restrictive means of furthering the government's interest. Taxpayers do not qualify for any policy exception to this requirement. Accordingly, Taxpayers must provide social security numbers for their dependents in order to claim personal exemptions on their federal income tax return.

FACTS:

Taxpayers claimed exemptions for their eight children on taxpayers' joint federal income tax return for Date 1. Taxpayers did not list on their return, or otherwise provide, the Taxpayer Identification Number (TIN) for any of the children listed on their return. The Service disallowed the eight exemptions because of the missing TINs and recomputed the tax due for Date 1 as a math or clerical error under I.R.C. § 6213(g)(2)(H).

On Date 2, the Service notified Taxpayers of the change to their Date 1 return and advised Taxpayers that their tax for Date 1 was underpaid by \$N. Taxpayers responded by providing birth and medical records and an affidavit stating that Taxpayers have not obtained TINs for their children because of Taxpayers' religious beliefs and convictions. By letter dated Date 3, the Service disallowed Taxpayers' claim for refund.

On Date 4, Taxpayers requested the assistance of Senator, and the matter was duly referred to the Taxpayer Advocate. A freeze code has been placed on Taxpayers' Date 1 account pending resolution of this matter.

## LAW AND ANALYSIS

Section 151(e) of the Code, effective for income tax returns due (without regard to extensions) on or after September 19, 1996, provides that no personal or dependency exemptions are permitted under the Code unless a taxpayer provides a TIN for each exemption claimed on the return. Section 6109(d) of the Code states that the social security account number [SSN] issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall be used as the identifying number for that individual for purposes of the Internal Revenue Code, unless otherwise specified by regulations issued by the Secretary. The Service provides Individual Taxpayer Identification Numbers [ITINs] (identifying numbers other than social security numbers) only to individuals who are ineligible to receive SSNs because they are not United States citizens.

In this case, Taxpayers and their children are United States citizens. Therefore, Taxpayers are not eligible to receive ITINs from the Service, and their SSNs are their proper identifying numbers for purposes of the Internal Revenue Code.

The Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488, codified at 42 U.S.C. § 2000bb [RFRA], states that the Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except that the Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to a person furthers a compelling government interest and is the least restrictive means of furthering that compelling government interest.

The case Steckler v. United States, 98-1 U.S.T.C. (CCH) ¶50,219; 81 A.F.T.R. 2d (RIA) 1049; 1998 U.S. Dist. LEXIS 722 (E.D. La. 1998), concerning the applicability of RFRA to the Internal Revenue Code, involved a refund suit challenging the automatic withholding requirement of I.R.C. § 3406(a)(1) by a taxpayer who failed to provide his SSN when redeeming treasury bonds. The taxpayer argued that he was opposed for religious reasons to using a universal identifying number such as an SSN, and that the Service substantially burdened the exercise of his religious freedom and violated RFRA by requiring the withholding of 31 percent of the value of his treasury bonds when he redeemed them.

The district court found that the government's interest in collecting taxes fairly, administering the tax system properly, and ensuring that all citizens participate in the system on equal terms was a compelling interest. The court found that the government had a compelling interest in tracking taxable income and, because the bond interest received was taxable income, in requiring TINs in bond redemption transactions. The court found further that it would be "extremely difficult for the nation's tax system if it had to accommodate myriad exceptions flowing from a wide variety of religious beliefs." Id., citing United States v. Lee, 455 U.S. 252, 260

(1982). The court thus found that the government applied the least restrictive means of furthering its interest and held that the requirement to furnish an SSN was no violation of RFRA under the circumstances.

Despite its holding for the government, the Steckler court expressed concern in dicta about the government's providing for certain individual exemptions, such as an exemption for ordained ministers. The court stated that the Service perhaps could devise an alternative method for handling taxpayers' religious conflicts without making the government's tax administration mechanism unworkable. Steckler at n2. The exemption for ordained ministers, however, requires that the minister declare personal opposition to accepting Social Security benefits and to waive all benefits under the Social Security Act. Further, the Commissioner of Social Security must approve the application. I.R.C. § 3127. In the instant case, Taxpayers stipulated that they are not opposed to the system of Social Security. Therefore, even if Taxpayers were ordained ministers, this exception would not apply to them.

In this case, the government's interest in collecting taxes fairly, administering the tax system properly, and ensuring that all citizens participate on equal terms in the system is compelling. The government has a compelling interest in tracking income to Taxpayers and tracking their dependency exemptions to ensure that the exemptions are used properly. It would be difficult for the government to further its compelling interest without using an identifying number for taxpayers and their dependents. The use of SSNs is the least restrictive means of furthering the government's compelling interest. Accordingly, RFRA does not bar the requirement that Taxpayers provide social security numbers in order to receive dependency exemptions.

Because RFRA does not apply to the requirement that taxpayers provide SSNs to claim dependency exemptions, and because neither the noncitizen exception nor the ordained minister exception applies to Taxpayers, Taxpayers must provide SSNs for their children in order to claim dependency exemptions on their Date 1 federal income tax return.

If you have any further questions, please call.

By: \_\_\_\_\_  
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cc: