



OFFICE OF  
CHIEF COUNSEL

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

MAR - 4 1998

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MEMORANDUM FOR LELAND N. KELLER  
NATIONAL DIRECTOR, REAL ESTATE PLANNING AND  
MANAGEMENT DIVISION

FROM:

Neil Worden *NW*  
Acting Chief, Claims, Labor, and Personnel Law Branch (GLS)  
Internal Revenue Service

SUBJECT: Use of Pseudonyms on IRS Identification Cards

You have asked for our opinion regarding the use of pseudonyms on identification media and any attendant legal implications. It is our understanding that pursuant to a previous agreement with the National Treasury Employees Union (NTEU), pseudonyms may be placed on pocket commissions, but not on identification cards. The primary purpose of identification cards involves internal security<sup>1</sup>; specifically, controlling access into IRS facilities.

The issue of placing pseudonyms on identification cards has once again surfaced due to employee concern that taxpayers, in seeing the name on the identification cards, would be able to harass, threaten, and/or assault the employee. [REDACTED]

You raise concerns about potential legal ramifications of placing pseudonyms on

<sup>1</sup>We note that since identification cards comprise internal security, the IRS would not be required to negotiate with NTEU over use of the cards. 5 U.S.C. § 7106(a)(1); see also *AFSCME and Library of Congress*, 49 FLRA No. 79 (1994). However, the case law indicates that the IRS would be required to negotiate with NTEU over what is contained on the identification cards. See *NTEU v. IRS*, 27 FLRA No. 66 (1987); *American Federation of Government Employees and Immigration and Naturalization Service*, 8 FLRA No. 75 (1982).

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identification cards. Specifically, you express concern about using pseudonyms since identification cards may be used to access other federal facilities and may also be used as identification for check cashing and securing government per diem rates. You also request information about whether the Internal Revenue Service Restructuring and Reform Act of 1998 requirement that a name and unique identifying number of employees be provided to taxpayers impacts on whether pseudonyms can be put on identification cards.

We are not aware of any legal prohibitions on placing pseudonyms on identification cards. We have searched the United States Code, the Property Management Volumes of the Code of Federal Regulations as well as other provision in the Code of Federal Regulations, Federal Labor Relations Authority Cases, and the Internal Revenue Manual. This search did not reveal any requirements or prohibitions regarding placing pseudonyms on identification cards.

As your office recognizes, the potential exists that the cards containing pseudonyms could be misused. For example, if for some reason an IRS employee were barred from entering another federal facility, and he appeared at the facility with his identification card bearing his pseudonym, the other federal facility would not know that the identification card was a pseudonym and would have no way to check on his real identity. Although this scenario presents a potential misuse of the card, we believe that the possibility of this type of scenario occurring is remote. In the event such misuse occurred, there are disciplinary procedures in place to address it.

In addition, it is unlikely that such misuse would expose the United States to any type of liability. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671-2680 provides the only vehicle for a tort claim against the United States. The FTCA waives the sovereign immunity of the United States for tort damages "caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his or her employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. § 1346(b). An IRS employee who misuses his identification card to enter another federal building would not be acting within the scope of his employment. Thus, no claim for damages would exist against the United States. In the event an individual sustained damages in such a scenario, any lawsuit would properly be brought against the IRS employee, not the United States.

Section 3705 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA) requires IRS employees working tax related inquiries to provide taxpayers with the means to identify the appropriate employee to whom they can address any further questions. Pursuant to section 3705(a)(3), during a personal contact, the IRS employee must provide the taxpayer with his or her name and unique identifying number. Should a decision be made to permit the use of pseudonyms on identification

**cards, the employee would still be required to provide his or her pseudonym and a unique identifying number. Section 3706 of the RRA permits the use of pseudonyms if adequate justification for its use is provided by the employee, including protection of personal safety. Thus, the use of pseudonyms would be consistent with the RRA since a name and unique identifying number would be provided and the IRS has a means of tracking the employee.**

**In conclusion, it is our opinion that there is no legal impediment to placing pseudonyms on identification media. Please contact Deanne Sobczak at (202) 401-4036 if you have further questions regarding this matter.**