

A Flat-Out “Frivolous Hoax” Admission

I'M DELIGHTED TO SHARE A VERY SPECIAL VICTORY-- a flat, spanking defeat on appeal of an IRS attempt to falsely characterize and penalize a [CtC](#)-educated filer as "frivolous" under 26 U.S.C. § 6702. While this is actually the second such instance overall (see the first [here](#)), it is the first in the nearly ten years since the [bogus "frivolous" discouragement campaign](#) began in earnest.

Most "frivolous" assertions by the IRS don't ever get to the point of immanent "collection" and an appeal proceeding. Most of the relatively small number of these lawless ventures by the agency just quietly go away when the filer makes clear that he or she isn't having any of the nonsense.

But, as sometimes happens, an eager-beaver at the agency couldn't let go after "[asserting](#)" the penalty in regard to George in Virginia's 2015 federal return. This gave George his opportunity to read the law to the off-kilter agency, and the outcome couldn't be more clear:

Challenges to the Liability

You disagree with your liability because you stated that you did not submit a frivolous return.

Based on the information submitted to Appeals, the civil penalty will be abated in full.

You raised no other issues.

[Here is George's return](#). (It will be noted that even though declaring \$0 in FICA "wages", George did not claim the return of FICA withholdings for reasons of his own).

[Here is the argument](#) George submitted* in his appeal last month once it became clear that the eager-beaver IRS agent didn't have the brains to stand down.

And [here is the IRS Appeals Office Notice of Determination](#) in regard to George's challenge of the alleged "frivolous" and penalty-liable character of his return. [Here is the subsequent Release of Lien](#).

Oh, and btw... George [got the refund sought in his filing...](#)

WELL DONE, George!!

*I am obliged to point out two mistakes in George's argument. One concerns a quote from the IRS IRM section 5.20.10.4.3. The last line in George's rendering of the section language, while sensible enough, doesn't appear in the section's language. That section paragraph reads only as follows:

"1. If it is determined that a taxpayer has submitted a tax return, including an original or amended return taking a frivolous position, stamp the return with the date received. Do not send the return through the Submission Processing Center. Send the complete original return with all attachments, including the envelope, to the FRP and maintain a copy of the return in the case file."

George's point that this language indicates that returns determined to be “frivolous” are not processed, and the processing of a return therefore indicates that it has not actually been determined to be “frivolous” regardless of what scary-appearing letters or notices might have been gratuitously sent forth in hope of intimidating the filer into reversal, remains sound.

The other mistake concerns the government's authority to levy. This sub-argument was irrelevant to George's "frivolous" challenge, but I have a responsibility for the clarity and accuracy of all information presented on these pages.

Contrary to what is argued in George's submission on pp. 4 & 5, the levy authority extends to *anyone* liable for a tax. The list of persons in 26 U.S.C. § 6331(a) is not of those who can be levied, it is of those who can be levied by mere "notice of levy", as opposed to a normal adversarial legal proceeding.



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