

## The IRS Frivolous Return Program

19. The IRS has centralized its Frivolous Return Program in Ogden, Utah. This program identifies purported tax returns filed with the IRS that qualify as frivolous tax returns because they are subject to the penalty imposed by section 6702 of the Internal Revenue Code (26 U.S.C.) (“IRC”). IRS offices and service centers throughout the United States forward purported federal tax returns identified as frivolous to the Frivolous Return Program in Ogden. The Frivolous Return Program notifies the taxpayers who file these documents that they need to file proper tax returns in order to avoid subjecting themselves to the penalty imposed by IRC § 6702. The Frivolous Return Program then reviews the tax returns that were previously identified as “frivolous” (or the taxpayers’ accounts) for audit, and, when appropriate, issues a notice of deficiency.

20. In my role as a Technical Advisor for the Frivolous Return Program, I identify frivolous tax returns and frivolous return-preparers and tax-scheme promoters. Accordingly, I am familiar with the IRS’s activities relating to frivolous tax returns and can determine whether a return qualifies as a frivolous return.

21. Near the end of 2004, I and other Frivolous Return Program employees began to observe a particular pattern or trend in the filing of Form 1040 income tax returns (as well as Form 1040A and Form 1040EZ returns) and Form 1040X amended returns that asserted that the taxpayers earned no taxable income. Those tax returns also included

Forms 4852, generally reporting no wages paid and asking for refunds of all of the federal income, social security, and Medicare taxes that had been withheld from the taxpayers' wages or salaries. IRS checks of information reported by the taxpayers' employers generally showed that wages had been paid and taxes withheld.

22. In nearly every case, the taxpayers taking part in the scheme described filed a federal income tax return that reported "zero" or no wages, salaries, or other income on line 7 of their federal income tax returns. The taxpayers also attached to the return a sworn Form 4852 (Substitute for W-2, Wage and Tax Statement, etc.) that reported that the taxpayers received no wages or salary from their employers. The Form 4852 reports the amounts of the federal income, social security, and Medicare taxes withheld from the taxpayer's wages or salary.

23. In some instances, the Form 4852 attached to the taxpayer's federal income tax return also states, on line 9 (in response to the inquiry "explain your efforts to obtain Form W-2, 1099-R, or W-2c"), that the taxpayer requested his or her employer to provide him or her with a Form W-2, but that the "company refuses to issue forms correctly listing payments of 'wages as defined in [sections] 3401(a) and 3121(a)' [of the Internal Revenue Code] for fear of IRS retaliation."

24. I have read Cracking the Code which was written by Peter Eric Hendrickson and published in July of 2003 and sold at [www.losthorizons.com](http://www.losthorizons.com). Cracking the Code, or CTC, was published shortly before the time when employees in the Frivolous Return Program at the Ogden Compliance Services Campus began to observe taxpayers filing Form 1040 tax returns which reported "zero" or no income, and which claimed, using

Forms 4852 that were attached to those tax returns, refunds of the federal income, social security and Medicare taxes that had been withheld from their wages or salaries.