

October 16, 2017
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USPS Tracking # 7016 0750 0001 1462 7207

Georgia Department of Revenue
P.O. Box 740380
Atlanta, GA 30374-0380

Re: Notice of Fraudulently Filed 3rd Party Information Returns for 2016

— NOTICE —

This notice puts facts into writing under penalty of perjury about the “other circumstances” showing that the IRS Information Returns Program (IRP) payer information shared with the Georgia Department of Revenue is unreliable. I hereby declare that the entity below fraudulently filed a 3rd party information return with the Secretary of the Treasury and Commissioner of the Dept. of Revenue of Georgia for the following reasons:

1. The income tax is an indirect tax in the form of an excise.^{1,2,3,4,5}
2. An indirect excise is a tax levied on certain activities or privileges.^{6,7,8}

¹ “The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax.” House Congressional Record, March 27, 1943, page 2580

² “Moreover, in addition, the conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class [240 U.S. 1, 17] of direct taxes on property, but, on the contrary, recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it. Nothing could serve to make this clearer than to recall that in the Pollock Case, in so far as the law taxed incomes from other classes of property than real estate and invested personal property, that is, income from ‘professions, trades, employments, or vocations’ (158 U.S. 637), its validity was recognized; indeed, it was expressly declared that no dispute was made upon that subject, and attention was called to the fact that taxes on such income had been sustained as excise taxes in the past. Id. p. 635.” *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, 16-17 (1916)

³ “It is unnecessary to enter upon an extended consideration of the technical meaning of the term “excise.” It has been the subject-matter of considerable discussion — the terms duties, imposts and excises are generally treated as embracing the indirect forms of taxation contemplated by the Constitution.” *Flint v. Stone Tracy Co.*, 220 US 107, 151 (1911)

⁴ “Excise Taxes are “...taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges. (Cooley, Const. Lim., 7th Ed., page 680.)” *Flint v. Stone Tracy Co.*, 220 U.S. 107, 151 (1911)

⁵ “We must therefore enter upon the inquiry as to implied limitations upon the exercise of the Federal authority to tax because of the sovereignty of the States over matters within their exclusive jurisdiction, having in view the nature and extent of the power specifically conferred upon Congress by the Constitution of the United States. We must remember, too, that the revenues of the United States must be obtained in the same territory, from the same people, and excise taxes must be collected from the same activities, as are also reached by the States in order to support their local government.” *Flint v. Stone Tracy Co.*, 220 U.S. 107, 154 (1911)

3. The United States Congress must enact a specific statute that levies a specific tax on a specific activity before there is a taxable event.^{9, 10, 11} This principle also applies to the Virginia State Legislature.
4. Considering the foregoing and my personal knowledge of the facts and events as they occurred, I deny involvement in any taxable event.¹²

Fraudulently Filed 3rd Party Information Return. The United States Congress granted statutory authority to file an information return with the Secretary of the Treasury when an entity paid income due to the realization of a taxable event. Considering that I wasn't involved in any taxable event, this entity had NO statutory authority to file an information return about me with the Secretary of the Treasury and the Commissioner. Nevertheless, this entity claimed they paid me income even though there were NO taxable events. The entity below fraudulently filed a purported Form W-2 with the Commissioner of the Social Security Administration, who in turn, updated the Secretary of the Treasury's tax records about me.¹³ This information was then shared with the Commissioner via the Information Sharing Agreement existing between the Georgia Department of Revenue and the IRS.

- [REDACTED], LLC, EIN: [REDACTED]

Summary. Considering the facts about income taxes, my personal knowledge of the facts and events as they occurred, and the lack of statutory authority to file information returns about me, the Secretary of the Treasury knows or has reason to know that a 3rd party information return was fraudulently filed with him. The Georgia Commissioner of Revenue is in the same situation.

⁶ "A tax laid upon the happening of an event, as distinguished from its tangible fruits, is an indirect tax which Congress, in respect of some events not necessary now to be described more definitely, undoubtedly may impose." *Tyler v. U.S.*, 281 U.S. 497, 502 (1930)

⁷ "It is contended, however, that the fact that the license tax can suppress or control this activity is unimportant if it does not do so. But that is to disregard the nature of this tax. It is a license tax — a flat tax imposed on the exercise of a privilege granted by the Bill of Rights. A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." *Murdock v. Pennsylvania*, 319 U.S. 105, 113 (1943)

⁸ "The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individual's right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed: 26 R.C.L., Taxation, § 209, p. 236; Cooley, Taxation, (4th Ed.), § 1676; *Opinion of the Justices*, 195 Mass. 607 (84 N.E. 499)." *Redfield v. Fisher*, 135 Or. 180, 197-198 (1931)

⁹ "[T]he statute and the statute alone determines what is income to be taxed." *Edwards v. Keith*, 231 F. 110 (2nd Cir. 1916)

¹⁰ "Without question, a taxing statute must describe with some certainty the transaction, service, or object to be taxed, and in the typical situation it is construed against the Government. *Hussett v. Welch*, 303 U.S. 303, 58 S.Ct. 559, 82 L.Ed. 858." *United States v. Community TV, Inc.*, 327 F.2d 797, 800 (10th Cir. 1964)

¹¹ "Keeping in mind the well settled rule, that the citizen is exempt from taxation, unless the same is imposed by clear and unequivocal language, and that where the construction of a tax is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid..." *Spreckels Sugar Refining Co. v. McClain*, 192 US 397, 416 (1904)

¹² "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws." *Long v. Rasmussen*, 281 F. 236, 238 (D.Mont. 1922)

¹³ "SSA processes all wage reporting forms for updating to SSA's earnings records and IRS tax records..." 20 CFR § 422.114.

Fraudulent Data in the IRS' System of Records. The Secretary of the Treasury and the Commissioner of Revenue are now noticed that they both are maintaining a system of records that contain fraudulently filed information returns. Treasury/IRS 22.061 Information Return Master File (IRMF) (Ref: 73 FR 13284, March 12, 2008/Notices) fails to identify that the IRS may file and maintain fraudulently filed documents for any legitimate purpose. Federal law provides only for the maintenance of such systems of records as is necessary for government employees to comply with their ministerial duties under the law; fraudulently filed documents and information are outside the lawful bounds set by the United States Congress for this system of records.

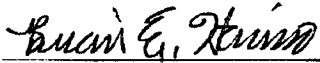
No Lawful Purpose. Title 5 U.S.C. § 552a(e)(5)¹⁴ shows that the Secretary is required to maintain the accuracy of his information and 5 U.S.C. § 552a(e)(6)¹⁵ requires the Secretary to verify the accuracy of the data he's using. Title 26 § 6103 and the IRS' information sharing agreement are based on accurate and reliable information. Now that the Secretary of the Treasury is aware that he has fraudulently filed information in his possession, he cannot use it for any lawful purpose. The foregoing information has been reported to the Secretary via the IRS at Stop 31313 in Fresno, CA through the use of Form 3949-A. It is now being reported to the Commissioner of Revenue.

Forms 4852. As a result of the above circumstance, I have filed with my return, a Form 4852. This form rebuts the information supplied by the payer and provides to the IRS and the Georgia Department of Revenue the facts about my receipts, that they were not connected with any taxable activity or event to have thus been presumed to be taxable income by the payer.

Jurat Pursuant to 28 U.S.C. §1746

I declare under penalty of perjury of the laws of the United States of America, that I have read the foregoing letter and the attachments, know their contents, and to the best of my knowledge and belief, the statements therein are true, correct, complete, and made in good faith.

Executed on: 10/16/2017
Date



Brian E. Harriss – All rights reserved

Attachment: Copy of Form 3949-A Information Referral

¹⁴ 5 U.S.C. § 552a(e)(5) “[M]aintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;...”

¹⁵ 5 U.S.C. § 552a(e)(6) “[P]rior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;...”

Use this form to report suspected tax law violations by a person or a business.

CAUTION: READ THE INSTRUCTIONS BEFORE COMPLETING THIS FORM. There may be other more appropriate forms specific to your complaint. (For example, if you suspect your identity was stolen, use Form 14039.)

Section A – Information About the Person or Business You Are Reporting

Complete 1, if you are reporting an Individual. Complete 2, if you are reporting a business only. Complete 1 and 2 if you are reporting a business and its owner. (Leave blank any lines you do not know.)

1a. Name of individual		b. Social Security Number/TIN		c. Date of birth	
d. Street address		e. City		f. State	g. ZIP code
h. Occupation		i. Email address			
j. Marital status (check one, if known) <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Head of Household <input type="checkbox"/> Divorced <input type="checkbox"/> Separated				k. Name of spouse	

2a. Name of business [REDACTED] LLC		b. Employer Tax ID number (EIN) [REDACTED]		c. Telephone number	
d. Street address [REDACTED]		e. City CRANBERY TOWNSHIP		f. State PA	g. ZIP code 16066
h. Email address		i. Website			

Section B – Describe the Alleged Violation of Income Tax Law

3. Alleged violation of income tax law. (Check all that apply.)

<input type="checkbox"/> False Exemption	<input type="checkbox"/> Unsubstantiated Income	<input type="checkbox"/> Unreported Income	<input type="checkbox"/> Failure to Withhold Tax
<input type="checkbox"/> False Deductions	<input type="checkbox"/> Earned Income Credit	<input type="checkbox"/> Narcotics Income	<input type="checkbox"/> Failure to File Return
<input type="checkbox"/> Multiple Filings	<input type="checkbox"/> Public/Political Corruption	<input type="checkbox"/> Kickback	<input type="checkbox"/> Failure to Pay Tax
<input type="checkbox"/> Organized Crime	<input type="checkbox"/> False/Altered Documents	<input type="checkbox"/> Wagering/Gambling	<input checked="" type="checkbox"/> Other (describe in 5)

4. Unreported income and tax years
Fill in Tax Years and dollar amounts, if known (e.g., TY 2010- \$10,000)

TY _____ \$ _____ TY _____ \$ _____ TY _____ \$ _____ TY _____ \$ _____ TY _____ \$ _____ TY _____ \$ _____

5. Comments (Briefly describe the facts of the alleged violation-Who/What/Where/When/How you learned about and obtained the information in this report. Attach another sheet, if needed.)

This form refers to a Form W-2 that the business reported for TY 2016. I asked them for the facts they used to support their decisions that (a) the IRC applied to me, and (b) that what I was paid was reportable as income to the IRS. In that same letter, I stated that if they could not answer these questions, then provide me with Form W-2c backed up with facts and witnesses. They refused/failed to provide any facts or witnesses in support of their decisions, and they refused/failed to issue any Form W-2c information return. Based on the foregoing, the W-2 provided by the business to the IRS constitutes naked assertions unsupported by the facts, and should not be used for any legitimate purpose.

6. Additional information. Answer these questions, if possible. Otherwise, leave blank.

a. Are book/records available? (If available, do not send now. We will contact you, if they are needed for an investigation.) Yes No

b. Do you consider the taxpayer dangerous? Yes No

c. Banks, Financial Institutions used by the taxpayer

Name			Name		
Street address			Street address		
City	State	ZIP code	City	State	ZIP code

Section C – Information About Yourself

(We never share this information with the person or business you are reporting.)
This information is not required to process your report, but would be helpful if we need to contact you for any additional information.

7a. Your name Brian E. Harriss		b. Telephone number	c. Best time to call		
d. Street address 19919 Tanika Avenue		e. City Chugiak		f. State AK	g. ZIP code 99567

Please print and send your completed form to: Internal Revenue Service
Stop 31313
Fresno, CA 93888