



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

OFFICE OF
CHIEF COUNSEL

June 21, 2000

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CC:EL:GL:Br3
TL-N-2105-00

UILC:75.10.00-00
9999.98-00

MEMORANDUM FOR PAUL KRUG, SPECIAL LITIGATION ASSISTANT (CT),
(NORTHERN CALIFORNIA DISTRICT) CC:WR:NCA:SF

FROM: Chief, Branch 3 (General Litigation)

SUBJECT: Review of Proposed Summons to

LEGEND: None required.

Pursuant to your request, we have reviewed the summons that the Service proposes to issue to . We perceive no barrier to enforcing the proposed summons. You may wish to include the monthly statements of account within the description of summoned bank documents for the eight accounts listed in the first set of summoned documents, assuming the examiner has not already obtained them.

As you noted in your incoming memorandum, we coordinated our review with the International Division. That division's advisory memorandum and the Information Document Request to which it refers are attached. We were pleased to assist you with this matter, and if you have questions or comments, please contact me at 622-3630 or Elizabeth Rawlins at 622-9867.

Attachments:

Memorandum from International District Counsel
Proposed Information Document Request



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CHIEF COUNSEL

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

CC:INTL:IDC:WBLowrance
TL-N-2105-00

UILC:982.02-00

MEMORANDUM FOR LAWRENCE H. SCHATTNER
CC:GL:Br3 CHIEF, BRANCH 3
Attn: Elizabeth Rawlins

FROM: Ricardo A. Cadenas
Chief, International District Counsel CC:INTL:IDC

SUBJECT: -TL N 2105-00

LEGEND: None required.

On April 28, 2000, you sent us a proposed summons with related information. The proposed summons requests books, records and information (foreign and domestic) from _____ of _____. The International Examiner proposes to issue a Formal Document Request (FDR) with the summons. You asked that we review the Formal Document Request.

I.R.C. § 982(c) provides, in part, that the term formal document request means any request, made after normal request procedures have failed to produce the requested documentation, for the production of foreign-based documentation. An FDR is issued only after normal Information Document Requests (IDR) procedures have failed in getting the requested information.

I.R.C. § 982 provides that if a taxpayer fails to comply with a FDR within 90 days after the mailing of the request, then the taxpayer shall be prohibited from introducing into evidence in a civil proceeding any foreign based documentation covered by the request.

Documents and information requested in the FDR must be foreign based documentation. The term foreign based documentation means any documentation held outside the United States which may be relevant or material to the tax

treatment of the examined item. The FDR must be mailed to the taxpayer's last known address by registered or certified mail. The FDR must include the following:

1. Time and place for production.
2. A statement of the reason previously submitted documents are insufficient.
3. A description of the documents requested.
4. Consequences of noncompliance.

We have reviewed the proposed FDR letter and attachment. We suggest the following:

That the International Examiner attach a copy of the IDR, to which _____ did not provide information, to the letter.

That "Foreign Document Request" be printed on the attached Form 4564 describing the documentation requested.

Item II on Form 4564 does not refer to foreign based documentation and the request may be best suited for the summons.

Item III should be "Copies of all personal financial statements of _____ that refer to foreign assets, foreign property, foreign income or foreign liabilities."

Item IV on Form 4564 does not refer to foreign based documentation and the request may be best suited for the summons.

Item VI should be "All escrow instructions, escrow statements, disbursement statements and any documents referring to _____ and/or any of _____ relatives which are outside the United States and relate to the acquisition and/or disposition of any assets in the United States, Hong Kong, Canada or any other country. Such assets may be, but are not limited to, real properties and corporate interests.

If you have any questions, please call me at 202-874-1321 or Trial Attorney Bill Lowrance at 202-874-1893.

Ricardo A. Cadenas
Chief, International District Counsel